

**An Evaluation of Electronic Surveillance as a Covert Technique In  
the Investigation of Organised Crime**

by

**Jessie Soobramoney Chetty**

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## DECLARATION OF OWN WORK

I, JESSIE SOOBRAMONEY CHETTY, declare that “**An Evaluation of Electronic Surveillance as a Covert Technique in the Investigation of Organised Crime**” is my own work, and that all sources quoted or used have been indicated and acknowledged by means of complete references. It has been submitted in partial fulfilment of the requirements of the degree of Magister Technologiae in the subject of criminal justice, at the University of South Africa. This document has also not been submitted at any other institution for any other qualification.

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## **ABSTRACT**

This research was initiated as a result of the ever-evolving sophistication of criminal syndicates in their perseverance of organised crime and their use of electronic covert methodologies. Based on the researcher's extensive managerial and operational experience, and on his unofficial observation of prosecutors, investigators and intelligence operatives, it became clear to him that there is a lack of evidence in court regarding serious and organised crime prosecutions.

This can be attributed to the lack of use of investigative techniques, or investigative techniques being incorrectly used and/or a lack of knowledge regarding the use of investigative techniques. One such example of an investigative technique is surveillance or electronic surveillance.

In this research study, the use and legality of electronic surveillance as a technique in the fight against organised crime, is discussed. Both national and international literature have been perused on the topic in question. Interviews were conducted with experienced former SAPS officers who were exposed to the use of electronic surveillance in the investigation of organised crime, as well as interviews with prosecutors, outlining the positive attributes of, as well as the shortcomings in, the use of electronic surveillance as an investigative tool in the investigation of organised crime.

Surveillance or electronic surveillance has been in existence for a long period of time, but its usage or "know how" has been limited to only a few. The main purpose of the research is to highlight the importance of electronic surveillance as a covert technique in the investigation of organised crime.

## **KEY THEORETICAL CONCEPTS**

**Organised crime, electronic surveillance, crime investigation, surveillance**

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## CERTIFICATE BY EDITOR

2 January 2020

I, Marlette van der Merwe, hereby certify that both the text and bibliography of the master's dissertation titled "An evaluation of electronic surveillance as a covert technique in the investigation of organised crime", by Jessie Soobramoney Chetty, have been edited by me, according to the referencing method specified by the School of Criminal Justice, Unisa.

A handwritten signature in dark ink, appearing to read 'Marlette van der Merwe'. The signature is fluid and cursive, with the first name 'Marlette' being more prominent.

Marlette van der Merwe  
BA (English) HDipLib (UCT)

## **DEDICATION**

I wish to dedicate this research to my late father, Mr Soobramoney Papadu and my mother Mrs S. Papadu. Their loving influence and continued encouragement to continue with my academic studies has paid off. My parents' philosophy to persevere in education, discipline and spirituality, is the foundation to this research.

## **LIST OF ABBREVIATIONS AND ACRONYMS**

CAS	-	Crime Administration System
CCTV	-	Closed-Circuit Television
CIA	-	Central Intelligence Agency
DNA	-	Deoxyribonucleic Acid
DPCI	-	Directorate for Priority Crime Investigation
DPP	-	Directorate of Public Prosecutions
GPS	-	Global Positioning System
MI5	-	Military Intelligence, Section 5
MO	-	Modus Operandi
MTN	-	Mobile Telephone Network
NPA	-	National Prosecuting Authority
PC	-	Personal Computer
POCA	-	Prevention of Organised Crime Act
POPIA	-	The Protection of Personal Information Act
PTZ	-	Pan-tilt-zoom camera
RICA	-	Regulation of Interception of Communications Act
RSA	-	Republic of South Africa
SAPS	-	South African Police Service
UN	-	United Nations
UNISA	-	University of South Africa
UNODC	-	United Nations Office on Drugs and Crime
USA	-	United States of America

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# **CHAPTER 1**

## **GENERAL ORIENTATION**

### **1.1 INTRODUCTION**

According to Sullivan, Smith, Ombler and Morris (2015:1), organised crime is turning into a progressively subtle and pervasive issue. Responding effectively to the dynamic and multifarious nature of unionised criminal activity is now becoming increasingly difficult. Crime statistics for 2018 (South African Police Service (SAPS), 2019:5) include the following:

- There has been a 1.6% increase in truck hijacking (a total of 1202)
- There has also been an increase in bank robberies (by 10 counts)
- The highest increase in cash-in-transit robberies, which has increased by 56.6% (86 counts)

### **1.2. PROBLEM STATEMENT**

Bryman (2007:5-20) defines a research problem as a statement about an area of concern, a condition to be improved, a difficulty to be eliminated, or a troubling question that exists in researcher literature, in theory, or in practice, that points to the need for meaningful understanding and deliberate investigation. CEPTARA (2009) comments: A problem statement is a clear description of the issue(s); it includes a vision, issue statement, and method used to solve the problem (solvable problem).

The problem statement, according to the researcher, who is a member of the SAPS, with extensive managerial and operational experience, based on his unofficial observation of prosecutors, investigators and intelligence operatives, is that there is a lack of evidence in court regarding serious and organised crime prosecutions. This can be attributed to the lack of utilisation of investigative techniques, or investigative techniques being incorrectly utilised and/or a lack of knowledge regarding the utilisation of investigative techniques. One such example of an investigative technique is surveillance or electronic surveillance. For research purposes, the researcher had focused on electronic evidence gathering by detectives and intelligence operatives in the usage of covert electronic surveillance in the investigation of organised crime. The research was restricted to investigators, prosecutors and intelligence

operatives in KwaZulu-Natal (KZN). Even though surveillance or electronic surveillance has existed for a long time, its usage or “know how” has been limited to only a few.

The time frame for the problem statement would be ongoing, if not addressed adequately, which would result in a higher crime rate. The impact of the problem, according to Crime statistics for 2018 (South African Police Service (SAPS), 2019:5), is that organised crime is on the increase, and it would be devastating if allowed to continue, resulting in a poorer economy, a lack of public confidence in the police and the government, and a lack of law and order. It is therefore of paramount importance that the gathering of evidence using electronic surveillance be at the forefront of investigative techniques.

The Geneva Centre for the Democratic Control of Armed Forces (2017) defines electronic surveillance as a concealed, intrusive technique for information gathering, performed in secrecy and without the target's knowledge, to combat severe crime and terrorism, and prevent danger to state security across European countries. The Geneva Centre ... (2017) comments: "Support the research by highlighting the importance of electronic surveillance as a covert technique in reducing crime".

This research is now fully completed, and has addressed the problem statement, in that it can assist prosecutors, investigators and intelligence operatives in the fight against crime by the efficient and effective use of electronic surveillance in addressing crime and organised syndicates. This can be done through various interactive means, such as introductory courses/workshops at basic training, introduction of intelligence techniques (electronic surveillance) at various courses, as well as 'on the job' training/mentorship programmes. The key purpose of this research was to assess the usage of covert electronic surveillance in the investigation of organised crime.

According to Heymann (2015), due to the rise of technology and international drug routes, organised crime has become an international problem, rather than a regional problem, with a focus on technology and law enforcement.

### **1.3. AIM OF THE RESEARCH**

Thomas and Hodges (2010:253) state that the term 'research aim' usually refers to the main goal or overarching purpose of a research project. Research aims are almost always positioned at the very beginning of a statement of research aims and objectives (or questions).

They are comprehensive and introductory, instead of specific and focused. An aim is “something intended or desired to be obtained by one’s efforts” (Thomas & Hodges, 2010:253). The aim is considered the 'what' of a research. The aim is roughly what one hopes to accomplish – one's overall plan in the project. It signals what and/or where one aspires to be by the end. It is what one wants to recognise. It is the point of doing the research. An aim is hence mainly broad. "It is ambitious, but not beyond possibility" (Thomson, 2014:10). The aim of this research is to evaluate electronic surveillance as a covert technique in the investigation of organised crime in Kwa-Zulu Natal.

#### 1.4. PURPOSE OF THE RESEARCH

According to the *Concise Oxford Dictionary* (2007:948), 'purpose' is the motive for which something is completed or for which something occurs. According to Locke, Spirduso and Silverman (2007:9), the purpose statement indicates “why you want to do the study and what you intend to accomplish.” According to Korbedpsych.com (2018), the research purpose explains the final conclusions of the research expectancy. Research ought to have a purpose, or else money, work and time used in the investigation would be of no value (Denscombe, 2002:25). Denscombe (2002:26) stated that forecasting, criticism, assessment, description, growth and empowerment can be viewed as possible aims for conducting research. The motive (aim) of a research comprises of the core and focus of the research, and provides standards contrary to which the results of the research can be measured (Denscombe, 2002:35).

This study lays emphasis on the following four purposes, as described by Denscombe (2002:26):

- **Evaluation:** “The making of a judgement about the amount, number, or value of something; assessment” (OxfordDictionaries.com, 2018). According to Denscombe (2002:26), researchers must assess specific programmes or policies by making judgements regarding strengths and weaknesses, as well as using evaluation as a way of how improvements can be made.
- **Exploration:** Exploratory research can be described as researching a concern or situation that offers the researcher an insight. It may use a range of techniques to obtain information, like trial surveys, interviews, group sessions, tests or other methods (BusinessDictionary.com, 2018). According to IGI Global (International Gemmological Institute) (2009), exploration allows the creation of new knowledge and opportunities

through organisational strategies, which gives learners the opportunity to try out different hypotheses and strategies to see the impact on the research. The researcher has explored literature on the topic, and conducted semi-structured interviews with differently prepared interview schedules for former police officials, intelligence operatives, and prosecutors from the Justice Department of KZN

- **Application:** According to Dictionary.reverso.net (2017), application can be defined as the “the act of applying to a particular purpose or use.” The researcher, based on what was learnt in this research, made suggestions to the management of the SAPS. These suggestions included what had not already been highlighted or discussed in any literature, legislation or guidelines. The main aim of these suggestions was to recommend an improvement in existing guidelines, rules and actions in the use of electronic surveillance as a covert technique. The aim of the research was to accomplish or solve a practical problem or improve procedures.
- **Empowerment:** Qualitative research creates an environment whereby participants share influence with researchers (Given, 2008).

According to the researcher, the outcome of the research is able to assist prosecutors, investigators and intelligence operatives with innovative, exploratory ideas in the fight against crime, by the use of electronic surveillance (Regulation of Interception of Communications and Provision of Communication-Related Information Act 70 of 2002) when addressing crime and organised syndicates. This can be done through publication of articles, as well as recommendations or suggestions to SAPS management for purposes of various interactive means such as introduction of organisational courses/workshops at basic training, various courses, as well as 'on the job' training/mentorship programs on the use of intelligence techniques electronic surveillance.

## 1.5. RESEARCH QUESTION

A strong research question is important, and sets the scene for progress of a clear research aim and objective that are indistinguishably linked (Martindale & Taylor, 2014:155). A research question is a liable investigation into a particular fear or issue. It is the early step in a research project. The 'initial step' means after getting an impression of what one wants to study, the research question is the earliest active step in the research project (Kowalczyk, 2018). A significant constituent of any research should encompass research questions since they

stipulate the matters that need to be looked into and deliver an outline, thus giving the research direction and focus (Johnson & Christensen, 2008:78; Onwuegbuzie & Leech, 2006:478-480).

When developing a research question, the opinions stated in the above paragraph were taken into consideration. Research questions are not fixed; they can be regarded as being flexible when the researcher works through the various steps, literature, framework and the cycle of design (Hennink, Hutter & Bailey, 2011:111-112).

**Research Question:** What is the value of electronic surveillance as a covert technique in the investigation of organised crime?

## **1.6. KEY THEORETICAL CONCEPTS**

Leedy and Ormrod (2012:44-45) articulate significant ideas of an investigation, which support the researcher in understanding the current work and advises that every idea must be characterized operationally – for example the meaning must interpret the idea as it is used, comparing to the research project. The following key theoretical concepts were decided on in relation to the topic:

**1.6.1. Surveillance:** According to the United Nations Office on Drugs and Crime (UNODC) (2009), surveillance is the collection or monitoring of information about a person or persons using technology.

**1.6.2. Electronic surveillance:** Study.com (2018) defines electronic surveillance as the act of recording, observing or listening to individuals in real time with or without their knowledge.

**1.6.3. Crime investigation:** Benson, Horne and Jones (2015:19) express that criminal examination is a systematic, thinking, intellectual, assessment and examination technique planned to search for certainty, through which a request and detailed examination are coordinated on a wide range of violations or unlawful acts.

**1.6.4. Organised crime:** Organised crime is any serious crime that is methodically and obstinately committed on a unremitting basis or based on a period of consciously concerted organised criminal group of two or more persons or a criminal enterprise, in search of an undue financial or other material advantages (Lebeya, 2007:17, 126).

**1.6.5. Covert surveillance technique:** Military Intelligence, Section 5 (MI5) (2019) states that surveillance, by nature, is covert when the subject is unaware that they are, or could be, a subject of investigation that is taking place. Covert surveillance

techniques are utilised beneficially when the target is not conscious of surveillance and is therefore not on his guard.

## **1.7. RESEARCH METHODOLOGY**

Research methodology can be understood as a methodical system to resolve a problem. It is the science of reviewing how investigation is to be carried out. Basically, the actions by which academics go about their effort of relating, explaining and expecting a phenomenon is referred to as research methodology (Rajasekar, 2013).

### **1.7.1 RESEARCH DESIGN**

Research design creates the plan for the collecting, measuring and the evaluation of data (Cooper & Schindler, 2008:140). It is a technique whereby one achieves research participants and gathers information from them (Welman & Kruger, 2001:46). The justification for a research design is to guarantee that the evidence found allows the researcher to respond to the original question as precisely as possible, according to De Vaus (2001:9).

**Experimental research** is grounded on applied and measured phenomena and gathers data from solid encounter rather than a logic or conviction (Cahoy, 2017). Empirical evidence is established on genuine life perceptions, which the researcher in this research gathered directly from the participants. This implies the researcher has confidence within the involvement of the research participants (Wagner, Kawulich & Earn, 2012:270). According to Punch (2014:4) and Welman and Kruger (2002:57), empirical research helps in creating thoughts through information collection, and is concerned with interviews and the investigation of secondary information sources. To reply to the research question, and address the points of the research, the researcher utilised a qualitative approach in an empirical research plan, since interviews were driven based on individuals' (investigators, intelligence operatives and prosecutors) real-life encounters, based on a certain phenomenon – in this instance in line with the research question and aims, as well as complications experienced by the participants, together with their views and recommendations regarding the problem at hand.

### **1.7.2 RESEARCH APPROACH**

Qualitative research involves the studied use and collection of a variety of empirical materials, such as personal experience, introspection, life story, interview, observational, historical, interactional and visual texts which describe routine and problematic moments and meanings



in individuals' lives (Denzin & Lincoln, 1994:2). Qualitative research concerns qualities. This is something that is unable to be tallied, people's knowledge, feelings and references. Interviews are generally related with qualitative data (What Works, 2015). A qualitative research approach serves to determine the participants' opinions, views and experience regarding a problem (De Vos, Strydom, Fouche & Delpont, 2011:65; Leedy & Ormrod, 2005:133; Ritchie, Lewis, Nicholls & Ormston, 2013:37; Wagner et al, 2012:126). By using qualitative methods, the researcher would be able to reveal potential problems that would be discovered through the interviews.

## **1.8. POPULATION AND SAMPLING**

The research is a dissertation of limited scope (mini-dissertation), which has limitations in terms of time, funding and space, together with any specific problems that may be encountered. The granting of permission by the SAPS has had its own difficulties, for the determinations of this research, the researcher intended to use a population of active police officials from the Crime Intelligence and Directorate for Priority Crime Investigation (DPCI) of the SAPS. The researcher applied for, and had acquired consent from the SAPS to conduct interviews on police officials from the DPCI and Crime Intelligence for the purposes of this study, but consent was later withdrawn (see Annexures "C" & "D"). The researcher has limited the population to participants (former police officials) who are no longer part of the SAPS Crime Intelligence and DPCI, and with no obligations to the SAPS. The target population would now be four experienced former police officials. On completion of the research, the researcher would have an article presented with regard to the outcome of the research, with the view of making suggestions and recommendations to SAPS management.

### **1.8.1. Population**

Du Plooy (2001:100) has defined a population as all probable units of investigation, while the target population is seen as the population to which the results are generalised. According to Msweli (2011:63), and Bachman and Schutt (2011:110), the population for research purposes is an assemblage (usually of people) from which the researcher aims to gain information to draw theories and generalise the results. According to Musvoto (2009:283), the method of classifying the population comprises of the identification of the target population and the formation of the sampling frame.

The researcher has restricted the target population to participants (former police officials) who have left SAPS Crime Intelligence and DPCI with no obligations to the SAPS. The target population would now be four experienced former police officials, who were exposed to covert methodology pertaining to electronic surveillance. The researcher has used snowball sampling, since these officials belong to a covert environment, and were not easily known or accessible – nor were their investigations, which were also of a sensitive nature. The researcher also intends to use a sample of prosecutors from the Department of Justice (Annexure "C"). The target population comprised two (2) prosecutors from the Directorate of Public Prosecution (DPP) office, who have been exposed to cases of prosecution pertaining to organised crime, where covert methodology was utilised in the use of electronic surveillance, in order to gather information/intelligence for its admissibility in a court of law. These prosecutors had been selected by the use of purposive sampling and then snowball sampling. The researcher intended to use his own judgement when selecting participants (purposive) and further utilise snowball sampling, as these officials were not easily known. The Deputy Regional Manager of the Justice Department KZN was utilised for selection of prosecutors, as the researcher is exposed to them on a daily basis.

### **1.8.2. Sampling**

Probability sampling is understood to be where the possibility, is that each participant in the research population has the same chance of being selected, thus making the results representative. Non-probability sampling is by nature non-representative, and the likelihood of participants being elected cannot be certain, nor can the point to which generalisations may be insufficient to non-statistical arguments (Saunders, Lewis & Thornhill, 2007:207). For the purposes of this research, the researcher utilised probability sampling.

A research sample is seen as a little gather of a population, which is chosen for the sole purpose of a specific research project (Enotes, 2018). Sampling may be a procedure of considering from many chosen items, as a substitute of the whole number of units; the little selection is called the sample and the bigger number of items of units of a characteristics is called a population (Enotes, 2018). Due to the covert nature of the work that was done by these former police authorities, snowball sampling was used, because it could enlist unseen members. Snowball sampling is whereby the initial subject makes referrals to other subjects for purposes of the research (Reddy & Acharyulu, 2009:203). The use of purposive sampling, and then snowball sampling, would select the sample. Wagner et al (2012:92), Babbie and

Mouton (2016:166) and Joubert, Hartell and Lombard (2016:103) state that the snowball technique is utilised when the members of a different population are tough to find.

Snowball sampling is a sampling method used in qualitative research: "In research terms a sample is a group of people, objects, or items that are taken from a larger population for measurement (Joubert et al, 2016:103)." Taking these factors into consideration, although there may not be a guarantee in terms of representation, at the same time representability cannot be ruled out as to who have been exposed to organised crime prosecution. Two different, independent interview schedules were utilised. One interview schedule was utilised for the former police officials (Investigators and intelligence operatives), and another interview schedule for the prosecutors. The interview schedules that were utilised for the interviews for Sample "A" and Sample "B", and questions expressed to participants, were composed from the problem statement, which allowed the researcher to focus on the known problem and to gather relevant data that offered answers to the identified problem. Only data that related to, and was relevant to the research questions and the identified problem, was gathered and analysed.

According to Cooper and Schindler (2008:140), the definition of a sampling frame is a parting of the target population. These authors declare that the sampling frame is the perspective of elements by which the sample is gathered. According to Musvoto (2009:285), the basic definition of sampling is that by stating some of the basics in a population, it may be possible to draw assumptions about the entire population. According to Du Plooy (2002:100), sampling is a tough procedure of choosing units of exploration from a larger population.

## 1.9 DATA COLLECTION

Data is any factual material that has been gathered, observed, produced or formed to authenticate original research results (University of Leeds Library, 2019). According to the University of Leeds Library (2019), data can be formed for a variety of purposes and through different processes:

- **Observational data** is seized in real time, and is unique – for example, interviews.
- **Experimental data** is captured from "lab equipment". It is often reproducible, but this can be costly.

- **Simulation data** is generated from test models where model and metadata are more important than output data.
- **Derived or compiled data** has been distorted from pre-existing data points. It is reproducible, but this can be expensive.
- **Reference or canonical data** is a static or organic accumulation/collection of lesser (peer-reviewed) datasets, most probably published and curated.

In this research, a qualitative technique was utilised, as information collecting and evidential literature for research purposes was picked up from literature and from semi-structured interviews and empirical information. A qualitative research approach helps to characterize the participants' considerations, views and experience with respect to a issue (De Vos et al, 2011:65; Leedy & Ormrod, 2005:133; Ritchie et al, 2013:37; Wagner et al, 2012:126). By utilizing subjective strategies, the researcher would be able to uncover potential issues that would be found through the interviews. According to Dantzker and Hunter (2012:16), in any case of the research design, data collection is constantly a key figure. According to Ragin and Amorosa (2011:131), data collection is the strategy utilised to gather evidence in systematic ways, such as studies, interviews, observation and already existing information. The assurance of information gathering in qualitative research is to convey evidence for the experience (Polkinghorne, 2005:138). As this is a qualitative study, the “main” information was gathered by means of semi-structured interviews (observational data).

### 1.9.1 Literature

Blaxter, Hughes and Tight (2006:122), De Vos et al (2011:328-341), Fink (2010:196) and Leedy and Ormrod (2010:146) are of the point of view that literature is all the accessible research on a topic. Data gathering and evidential literature for this research was gathered from articles and publications from websites, research dissertations/theses, and current legislation and guidelines pertaining to South African criminal law, and the South African Criminal Procedure Act – also legislation such as Act 70 of 2002 (Regulation of Interception of Communications Act – RICA) was utilised. Literature relevant to this research was widely consulted, especially covert methodology, which is dealt with mainly by crime intelligence SAPS and other law enforcement agencies. There are currently national instructions pertaining to electronic surveillance, as well as guidelines in terms of its applications and use as an investigative tool, which are not available to the normal public. SAPS is the only

organisation that is entrusted with criminal investigations; however, its awareness and use have not been optimally utilised for gathering vital information for investigative purposes. Both national and international literature were also viewed regarding the research at hand, also keeping a “lookout” for new publications.

The researcher has researched the availability of other literature on the topic and has thus far established a topic by the United Nations Office on Drugs and Crime: “Current practices in electronic surveillance in the investigation of serious and organized crime” (UNODC, 2009) that pertains to UNODC member state countries gathering together to discuss and find ways for the practice of electronic surveillance. It was further established from the review that not all countries use electronic surveillance. The shortfall of the above research done is that it is foreign based, and addresses issues on electronic surveillance at a transnational level, and does not specifically take South African organised crime analysis and its legislation fully into its fold. South African electronic legislation is governed by Act 70 of 2002 (Regulation of Interception of Communications and Provision of Communication-Related Information Act), which is used as a guideline by police and investigators, as well as by prosecutors, in terms of admissibility.

It is together with this explanation in mind that the researcher found the need to continue with this research, as it precisely addressed consciousness in the use of electronic surveillance as a covert method in the investigation of organised crime within the limits of South African legislation, guidelines and South African investigation practices using South African criminal law, the South African Criminal Procedure Act, as well as the use and awareness of Act 70 of 2002 (Regulation of Interception of Communications and Provision of Communication-Related Information Act). The researcher's aim is to provide an information gathering tool which would assist the SAPS (investigators and intelligence operatives), as well as the South African Justice Department, in the use of electronic evidence gathering.

Before the researcher decided whether or not to incorporate what was found into the literature review, the researcher evaluated the sources to ensure it contained information which was useful and pertaining to the scope of study. The researcher utilised six steps to the evaluation process that were taken into consideration, as outlined in Barker (2005):

- **Authority:** This was whereby before “approving” an article, the researcher researches the author of the article, to ensure a degree of accountability by the author, ensuring

the validity and reliability of the article. This is an extremely important step, as it ensures whether or not the information is reliable.

- **Precision:** The basis of research material is seen to be scholarly when it offers references to the existing data. In doing so, the researcher can check whether the data is precise, or the author's conclusions rational.
- **Objectivity:** The researcher would want to recognize if the information is prejudiced or not, in order to make appropriate selections on how to use it. Relying on the researcher's own experience and expertise was one way of finding out if the data appeared plausible or reasonable.
- **Currency:** Constant adjustments in search engine technology, and new developments, appear constantly, now and again proving previous information wrong. Their currency "date" of the article wishes to be reasonable.
- **Coverage:** This is one of the most essential elements to consider before using the facts on a net page. If the data seems one-sided, it could be evidence of bias; the researcher should search adequate sources to acquire a diversity of views, consequently indicating where a particular view suits in the research.
- **Appearance:** Assessing superiority in a book via its physical layout, the existence of a well-organised table of contents and complete index. This attention to detail reflects a vital quality. In a web source, an image of excellence in a website is external links that function well, and an organisational development that lets the researcher decide content material rapidly and gain it with equal speed.

Numerous published national and international books/journals have been reviewed thus far on the subject matter in this research, in relation to the research question and the research problem. The sources of literature reviewed include articles and publications from websites, research dissertations/theses, legislation and guidelines pertaining to South African criminal law, and the South African Criminal Procedure Act. The following are some of the examples of literature reviews "consulted" thus far. These differed from the current research, which was done within South African legislation (viz Act 70 of 2002, the Regulation of Interception of Communications and Provision of Communication-Related Information Act) and guidelines. The participants utilised had been investigators, intelligence operatives and prosecutors from South Africa in the province of KwaZulu-Natal.

The research, when completed, would aid the SAPS as well as the South African Justice Department. As stated in the topic, "The use of electronic surveillance as a covert technique

in the investigation of organised crime,” legislation pertaining to a covert technique (electronic surveillance) differs from country to country, as the constitutions of the various countries also differed. It is for this main reason that the researcher wishes to conduct this research with a view to highlighting electronic surveillance as a covert technique in South Africa, as well as its awareness in providing assistance for law enforcement and the Justice Department, ultimately to address crime and crime syndicates in South Africa

### **1.9.2. Interviews**

According to Easwaramoorthy and Zarinpoush (2006:1), an interview is a discussion for collecting data. A research interview includes an interviewer who arranges the procedure of the “conversation” and asks questions, and an interviewee who responds to those questions. Interviews can be face-to-face or over the telephone. Interviews can be set inversely, depending on the essentials being addressed, as well as the information. They can be collected into three types:

**Structured interviews:** This is whereby the questioner asks a group of ordinary, planned questions about precise topics, in a cautious order. The participants are obliged to choose their answers from a list of options. The interviewer might recommend an explanation on some questions.

**Semi-structured interviews:** This is where the questioner asks usual, arranged questions, and the participants reply in their individual words. The questioner can question areas grounded on the participants' answers, or ask additional questions for clarification.

**Unstructured interviews:** This is seen where the interviewer has no precise rules, boundaries, prearranged questions, or list of options. The interviewer asks a few across-the-board questions to include the respondent in an open, informal and spontaneous discussion.

Semi-structured interviews with the participants (investigators, intelligence operatives and prosecutors) were conducted using a prepared interview schedule (list of questions) to obtain their views, opinions and experiences on the research at hand. As mentioned in the preceding paragraphs, the target population sample for this research were four (4) experienced former police officials (retired within a three-year period), who have been exposed to the use of electronic surveillance as a covert technique. One interview schedule (list of questions) was utilised for the former police officials and another interview schedule for the prosecutors, thus having two different independent interview schedules.

Barbour (2014:337), De Vos, Strydom, Fouché and Delport (2005:203), Lichtman (2014:248) and Mills and Birks (2014:188) stipulate that researchers make use of semi-structured interviews have a full picture of the participants' views about, insights into, or accounts of a topic. The questions posed were relevant to the research topic, aim and research question. The interviews had been directed individually and confidentially, with the participants participating freely and voluntarily with consent. Kumar (2011:389) provides a description of interviewing as any "person to person interaction"; this can be either face to face, or otherwise, between two or more people, with a specific objective in mind. It includes questioning and recording answers. Leedy and Ormrod (2005:184) add that, in a semi-structured interview, the researcher asks a standard set of questions, with some entirely tailored questions to gain an explanation about, or investigation into, a person's reasoning.

The researcher had personally led separate, head-on interviews with the participants, according to the sampling stated above, who had utilised/dealt with electronic surveillance. As this study is a qualitative study, information had been gathered by the utilisation of semi-structured interviews. The researcher made use of the propositions for leading a productive interview, as suggested by Leedy and Ormrod (2005:147):

- The researcher had made advanced planning with regard to questions: The pilot study conducted had assisted the researcher in terms of the type of questions that had been used for the main study. The researcher had made use of a semi-structured interview schedule, together with pre-planned interview questions, which were open-ended during interviewing. According to Leedy and Ormrod (2005:184), the researcher had used standard questions with one or more specific questions in semi-structured interviews, to get clarity or to obtain thoughts of reasoning.
- Ensuring that the interviewees were from the target group: The researcher utilised purposive sampling, and then snowball sampling, with an empirical design in his sampling and interviewing.
- Locating an appropriate interviewing venue: The researcher had safeguarded a quiet venue was selected with little or no noise, with no interruptions so as not to disturb the participants throughout the interviews. An interview must be performed at a place where there are no people who are "hanging around", as they may cause a disturbance to the interview, and appropriate material may not be offered as anticipated (Technikon Pretoria, 2002:45).
- Obtain permission: Prior to the interviews being performed, the researcher requested for permission and obtained approval from the SAPS to interview police officials from



the DPCI and the Crime Intelligence environment, for this study, but permission was later withdrawn. According to Creswell (2009:89), a permission form created by the researcher had been endorsed by the participants; this gave the assurance that the participants' rights would be safeguarded.

- Emphasis on the experience rather than on conceptual or hypothetical: The researcher had focused the interview on a pre-planned interview schedule, in line with an empirical design relevant to the topic, research question and aims.
- Neutrality to be maintained: The researcher must ensure that the participants are not influenced, coerced or intimidated in any way, to ensure integrity of the information obtained. The researcher, who is a member of the intelligence fraternity, is familiar with utilising his listening skills, ensuring a free flow of information.
- Recording of the interview: The researcher had made verbatim notes during the interviews, as well as electronically recording the interview to ensure integrity of the data obtained. Once all information was obtained, the researcher went through all the information recorded, with the participant, to obliterate any discrepancy.
- No emotional reaction: The researcher had not shown any reaction to answers given by the participant, therefore not influencing the outcome of the questions that were asked. The researcher had kept his reactions concealed, even if the questions were embarrassing.
- Information gained is not certainly factual: The researcher should constantly treat the participants' responses as opinions or perceptions, instead of facts, even if they are extremely convincing.
- Due to the researcher's knowledge in interviewing, he was alerted that some of the questions were not answerable by some participants, and they had attempted to change the focus point by giving unconnected answers. This resulted in the researcher having to re-direct the participants back to the subject when the participants were oblivious of the answers. This was done by repeating the questioning, to be able to order find responses from the participants. The above is valid to the samples used.

### **1.9.3 Pilot Study**

According to Hassan, Schattner and Mazza (2006:1), a pilot study is well described as a “small study to test research protocols, data collection instruments, sample recruitment strategies and other research techniques, in preparation for a larger study.” A pilot study is regarded as one of the crucial phases in a research project. It is a required phase, and extremely beneficial in giving the basis to recognise possible problem areas and shortages in the research tools and procedure prior to application during the full study. The researcher had conducted a pilot study prior to the main research, to ensure success, effectiveness and direction to the main investigation. According to De Vos et al (2011:241-247), the researcher, in pilot studies, had verified all characteristics affecting the key investigation, on a negligible scale, not aiming to generalise the results. Bryman (2001:155) and Bernard (2013:165) state that a pilot study ought to be led prior to running a bigger study, and recommends that other participants assist in the research, who are similar to members of the population from which the complete study had been taken. The researcher aimed to utilise a pilot study, conducting semi-structured personal interviews with former police officials. Barker (2003:28) defines a pilot study as a method whereby utensils are tested and authenticated by guiding it to a minor group of participants from the planned test population.

The researcher guaranteed that all questions relating to the interview were assessed on two former police officials and one prosecutor, to guarantee that the questions were clear and data would be gained, as well as to classify any shortcomings. Where flaws were exposed, they were corrected before the final interview schedules were drafted. The interview schedules were tested on people who were not the actual participants in this research.

#### **1.9.4. Personal Experience/Bracketing**

The researcher is currently a project co-ordinator (covert structure) in crime intelligence in KwaZulu-Natal, who has a vast amount of experience in handling undercover projects and the various undercover agents using various undercover techniques. Bracketing is a technique used in qualitative research to lessen the possibly harmful effects of preconceptions that may hinder the research process (Tufford & Neuman, 2010:80-96). The researcher had ensured that objectivity and impartiality was maintained, at the same time ensuring that the participants were not coerced or intimidated during the interview when answering the questions.

Bracketing is a technique to defend the researcher from the increasing consequence of investigating what may be emotionally stimulating material; therefore, in terms of the research, the researcher attempted to safeguard that the research was done in an unbiased manner,

while not becoming expressively involved in the research, also ensuring that the results and interpretations are not skewed. The essence of bracketing is to ensure that the researcher does not become emotionally involved in the research by means of his experience or influence, thereby causing the results to become ineffective, resulting in a waste of time, finances and manpower (Tufford & Neuman, 2010:80-96).

### **1.10. DATA ANALYSIS**

Creswell (2013:182) and Leedy and Ormrod (2010:153) label a data analysis spiral, which is efficient to a wide variant of qualitative studies. Data analysis is the method of allocating understanding, composition and significance to the form of collected data (De Vos et al, 2011:397). According to Creswell and Plano Clark (2007:131), qualitative analysis starts with coding the data, splitting the text into minor units (phrases, sentences and paragraphs) and giving a label to each unit. Leedy and Ormrod (2005:150) state that by using the data analysis spiral approach, the data is assessed several times by taking the following steps:

- Organisation: Raw qualitative data had been broken down from larger units to smaller units, creating a database as well as filing it to organise the data.
- Perusal: Here, the complete data set had been scrutinized numerous times to get an overall idea of what it contained, noting preliminary interpretations.
- Classification: Here, the researcher had classified data into groups or themes and identified general categories, at the same time finding and interpreting meaning in the data.
- Synthesis: Here, the researcher had constructed tables, diagrams and hierarchies, where applicable, and had integrated and summarised the data for presentation.

According to Stenton (2006:16), the crime analysis procedure includes of five phases, as follows:

- Data collection
- Data collation
- Analysis
- Dissemination of results
- Feedback from the information users

Respectively, every phase has meaning in the crime analysis process, since it had guaranteed correctness, cogency, and dependability of analytical production and results.

The researcher, in this research, had been using qualitative data analysis, which is defined as a severe and rational process by which information was given meaning. The investigation of the information had been directed to a preliminary description of the data. Describing data is not sufficient; it is essential to explain, to understand and to describe the data (Gray, 2009:118). Creswell (2013:180) states that data analysis in qualitative research entails formulating and arranging the information for analysis, then creating themes with this data by a method of coding and shortening the codes, and lastly, representing the data in statistics, tables or a conversation.

### **1.10.1 HISTORICAL INFORMATION**

Participants 1 to 4 are former police officials, who had retired within a three-year period. They had experience in the fields of both investigation (DPCI) and covert crime intelligence. Participants 5 and 6 are regional court prosecutors who have experience in organised crime and the use of electronic surveillance.

### **1.11. TRUSTWORTHINESS**

The trustworthiness of qualitative research can be intensified by protecting high validity and objectivity. A research meaning of trustworthiness can be “demonstration that the evidence for the results reported is sound and when the argument made based on the results is strong” (LaBanca, 2010). Wagner et al (2012:137) and Du Plooy-Celliers, Davis and Bezuidenhout (2014:258) specify that the idea of trustworthiness is used for legitimacy and reliability in subjective investigate. To ensure reliability in qualitative research, the researcher obeyed the following:

#### **1.11.1. Credibility**

Credibility is understood as how certain the qualitative researcher is in the truth of the research study’s findings. This comes down to the question of “how do you know that your findings are true and accurate?” According to Olsen (2004), triangulation is well-defined as the fraternisation of data or approaches so that diverse viewpoints or standpoints cast light upon a topic. The researcher applied additional sources of information, according to Leedy and Ormrod (2005:99); this is mentioned as “triangulation.” A researcher may utilise informal observations, as well as make use of in-depth interviews, searching for shared themes in data gained from these approaches.

Qualitative researchers can utilise triangulation to demonstrate that the research study's findings are trustworthy (Statistics Solutions, 2016). Universalteacher.com (2015) terms this 'credibility' in qualitative research. Credibility means the concept of internal consistency, where the core issue is how the researcher ensures that rigour is in the research process, and the way in which the researcher communicates with other persons. The researcher ensured that credibility was maintained when data was collected from the various sources; he also ensured that the participants in the interviews were not coerced or influenced in their responses. The analysing of data had also opened transparency, and kept the participants abreast in terms of their inputs. The researcher ensured that data collected from the relevant sources was relevant to the topic, aim and research question, thus bringing credibility to the research. The sampling and the population utilised had also been based on the research topic, aim and research question, which are of the utmost importance in having the correct sampling and population.

#### **1.11.2. Transferability**

Transferability is seen as the way in which the qualitative researcher approves the research study's results and its suitability to other contexts. In this case, "other contexts" can mean equivalent circumstances, alike populations, and parallel phenomena. Qualitative researchers can utilise dense description to illustrate that the investigate study's results can be appropriate to added contexts, conditions, and circumstances. Transferability refers to the degree to which the results of qualitative research can be summed up or exchanged to other contexts or settings (Statistics Solutions, 2016).

According to Socialresearchmethods.net (2006), the researcher can transfer the results from the research to other contexts (groups and organisations). In this research, the results obtained were recommended, firstly, to the SAPS, with a view to aiding and assisting in the investigation of organised crime, using electronic surveillance. It would be further recommended to other policing organisations nationally, where applicable. Due to credibility being maintained, the information/knowledge obtained in this research was similar to, if not the same as, that of other researchers in this field.

#### **1.12. METHODS TO ENSURE RELIABILITY**

Reliability is the grade of steadiness of a quantity. An assessment will be reliable when it gives the identical recurrent result under similar circumstances (Explorable.com, 2009).

### **1.12.1. Dependability**

Dependability is the degree to which the study might be recurrent by other researchers and that the results would be reliable and dependable. In other words, if an individual sought to duplicate a study, there would be sufficient information from the research report to do so and gain similar results as the “original” study did. A qualitative researcher can utilise an analysis audit to create dependability, which necessitates an external person to evaluate and observe the research process and the data analysis to guarantee that the findings are reliable and could be recurrent (Statistics Solutions, 2016).

Universalteacher.com (2016) defines dependability in qualitative research as the stability of data over time and over conditions. Dependability can be compared to reliability in quantitative studies. In other words, dependability is an evaluation of the quality of the integrated processes of data collection, data analysis and theory generation (Universalteacher.com, 2016). Leedy and Ormrod (2005:150) state that by using the data analysis spiral approach, the data is assessed several times, thus ensuring integrity in the analysis process. The researcher in this research used the data analysis spiral approach once all data had been obtained from the various sources, ensuring that it went through the various steps in the data analysis spiral approach, ensuring integrity, accuracy and transparency, which, when checked by other researchers, would ensure authenticity. This also further ensures that the data obtained from the various sources was not manipulated or changed to support a particular viewpoint. The researcher ensured dependability of the process in which the research was conducted, and documented all methods, approaches, designs or techniques used.

### **1.12.2. Confirmability**

Confirmability is the step of objectivity in the research ponder results. This implies that the results are initiated on participants’ answers and not any possible inclination or discrete motivations of the researcher. This incorporates confirming that researcher’s belief does not incline the translation of what the research participants said to fit a particular depiction. To form confirmability, qualitative researchers can suggest a review path, which focuses on each step of data analysis that was utilised to offer a basis for the selections made. This helps the inquirer about study results, because it accurately portrays participants’ reactions (Statistics Solutions, 2016).

To ensure confirmability has been maintained, the researcher ensured that the data obtained from the various sources was not be manipulated or coerced into a viewpoint of the researcher, even if it did not conform to the researcher's view. The researcher, to ensure conformability in the process by which the research was to be conducted, clearly documented all methods, approaches, designs or techniques used, ensuring transparency and accuracy. Hence, the use of the data analysis spiral approach. This has provided future "checks and balances", if and when the need arises

### **1.13. ETHICAL CONSIDERATIONS**

The meaning of "ethicity", according to Dictionary.com (2018), is the state or quality of being moral or morally appropriate. Ethical considerations can be identified as one of the most vital parts of the research. Dissertations may still be doomed to failure if they are missing ethical considerations (Research-Methodology.net, 2018).

The researcher ensured, prior to commencing with interviews, that the necessary permission was obtained. The researcher further ensured that The UNISA Code of Ethics (UNISA, 2009:6) and the UNISA Policy on Research Ethics (UNISA, 2013:9) was adhered to. Only once permission had been obtained, did the interview process begin. According to Bryman and Bell (2007:66-67), there are ten important principles that needed to be taken into consideration in relation to ethical considerations, which the researcher considered and put into practice. The following ten points mentioned by Bryman and Bell (2007:66-67) represent the most important principles relating to ethical considerations in dissertations:

- Research participants were not exposed to harm of any kind; the researcher attempted to find a secure, quiet, safe venue, with paramount importance given to the safety of the participants.
- Respect for the dignity of research participants was focused on. The researcher ensured that the participant was given the utmost respect, at the same token ensuring that any request coming with questions or queries were given immediate attention and resolved.
- Full permission was acquired from the participants earlier to the study. The researcher obtained consent from the participants via a consent form which was explained to the participants, ensuring that their legal rights were not violated.
- The safety of the privacy of research participants has been guaranteed. The researcher interviewed the participants in a private venue which had no public disturbances, and which was not visible to other persons outside or inside the venue,

with the anonymity of the participants maintained among persons not involved in the interview.

- Adequate level of confidentiality of the research data was ensured. The anonymity of the participant was maintained with persons not involved in the interview, together with the data obtained from the questionnaire and the interview. Reassurance was given to the participants.
- Anonymity of persons and organisations contributing in the research was guaranteed. The participants were from the beginning assured that anonymity would be retained and that all data gathered from the questionnaires and the interviews was secured in a safe environment under “lock and key.”
- Any deception or dishonesty about the aims and objectives of the research was avoided. The researcher explained to the participants the aims and objectives of the research, prior to the commencement of the interview, and if they were not comfortable in answering any questions during the interview, they did not need to answer the question.
- Affiliations in any way, resources of funding, as well as any potential differences of interest must be announced. The researcher ensured that there was no affiliation between the researcher and the participants, as well as that there was no conflict of interest with the participants.
- To guarantee integrity of the research, any communication within the research was done with total trustworthiness and straightforwardness with all the participants and those who were involved within the research, hence ensuring that the research was based on substantial communication and integrity.
- Any type of deceptive information, as well as interpretation of primary data findings in a prejudiced way, has been prevented, as mentioned in point nine (9): "honesty, transparency had been maintained and bias had been avoided at “all costs.”

According to the UNISA Policy on Research Ethics (2013:9), UNISA endorses the following four globally recognised ethical values of ethics as a foundation for research:

- Autonomy (a study should respect the independence, privileges and self-respect of research participants): The researcher guaranteed full confidentiality for the participants, as well as a guarantee that others, including the rest of the participants had been noted for their contribution.



- Beneficence (research should make a practical impact towards the welfare of people): The researcher guaranteed confidentiality and transparency of the participants by assuring them of this.
- No maleficence (research should not bring harm to the research participant(s) or to people in general): The researcher guaranteed the anonymity of persons and organisations participating in the research. The researcher also guaranteed that the interview takes place in a closed environment, thus assuring the participants of anonymity.
- Justice (the advantages and risks of research should be equally distributed between people): The researcher guaranteed that there is no dishonesty, overstatement or misrepresentation to the participants, also guaranteeing that honesty and integrity is always preserved.

The researcher has adhered to the above moral principles of ethics for research by UNISA.

## **1.14. RESEARCH STRUCTURE/CHAPTER OUTLAY**

### **1.14.1. Chapter 1: General Orientation**

This chapter serves as an introduction to the reader, outlining the topic, aim of research and research question, together with the methodology (approach and design).

### **1.14.2. Chapter 2: Electronic Surveillance as Covert Technique in the Investigation of Organised Crime?**

This chapter encompasses the research question, “How can electronic surveillance be used as a covert technique to gather evidence in the investigation of organised crime?” This chapter covers the research question in detail, to determine the benefit of electronic surveillance in the investigation of organised crime. Several categories of electronic surveillance and their covert applicability in the investigation of organised crime are examined.

### **1.14.3. Chapter 3: Findings, Recommendations and Conclusions**

This chapter provides a description of the possible use of covert techniques in electronic surveillance in gathering evidence in the investigation of organised crime. It also provided a conclusion of the research.

## **CHAPTER 2**

# **THE USE OF ELECTRONIC SURVEILLANCE AS A COVERT TECHNIQUE IN THE INVESTIGATION OF ORGANISED CRIME**

### **2.1 INTRODUCTION**

The growing difficulty of crime being committed can necessitate the utilisation of electronic surveillance within the investigation of organised crime. When routine methods of policing are unsuccessful in creating the expected result, unconventional approaches, such as covert criminal investigations ended up a prerequisite to be able to realize the chosen goal of criminal investigation – which includes the acquiring of proof to do the anticipated conviction in court. For the purposes of this dissertation the researcher made use of the terms 'surveillance', 'electronic surveillance', 'crime investigation' and 'organised crime'. The researcher explored literature on the topic, and conducted semi-structured interviews with different prepared interview schedules for former police officials (Attachment "A"), intelligence operatives, as well as for prosecutors (Attachment "B") from the Justice Department KZN.

The usage of electronic surveillance is a covert method where electronic gadgets are camouflaged to gain the data/proof of criminal targets in order to verify their illegal activities. In this chapter, the researcher advises the reader on the concept of criminal investigation, the objectives/purpose criminal investigation, covert surveillance technique, concept of electronic surveillance, the legal principles involved in the use of electronic surveillance, types of electronic surveillance, the concept of organised crime, the value of electronic surveillance in investigation, the use of Act 70 of 2002 (RICA) as an investigative tool in the investigation of organised crime, the procedural protocol for the use of electronic surveillance, the advantages of electronic surveillance in the investigation of crime, crime intelligence, and the assistance of electronic surveillance to prosecutors during the prosecution process.

## **2.2 CONCEPT OF CRIMINAL INVESTIGATION**

According to Gehl (2019), criminal investigation is a challenge which entails unravelling multi-faceted problems. The first officer arriving at the scene is duty bound to make pertinent decisions immediately, in some cases involving life and death, founded on restricted evidence in an ever-changing active and evolving environment. The investigating officer is required to preserve the crime scene after the criminal event has taken place, in order to collect vital information with the view of devising a plan of investigation in order to identify and arrest the perpetrators or persons responsible for the crime, based on reasonable grounds. To meet these challenges, police investigators, through training and experience, learn investigative processes to develop investigative plans and prioritise responses.

According to Gehl (2019), in order to be an effective investigator in criminal investigations, the investigator does not only utilise a set of task skills, but similarly a set of thinking skills. It is vital that these skills are comprehensively advanced and comprehended to the point where they are purposefully engaged to work through the problem-solving process that is criminal investigation. Trained thinking and response can be tricky to adapt into one's personal repertoire, because people are all conditioned to be less formal, whereby thought is pushed in one's everyday thinking.

According to Thibault, Lynch and McBride (2007:232), investigation is the “catching” of offenders by collecting evidence that follows to their arrest, and the gathering and presentation of proof and testimony for the purpose of gaining a conviction. Investigation is about making observations and exploration to gain accurate information about claims, conditions and relationships (Van Heerden, 1986:182). For Osterburg and Ward (2010:5), the investigation of crime embraces “the collection of information and evidence for identifying, apprehending and convicting suspected offenders”. Gilbert (2010:46) also states that the investigation of misconduct is a lawful review that is formed on motive and objectives.

In terms of section 205 (3) of the Constitution (South Africa, 1996), the purposes of the SAPS are to achieve the following:

- Stop, fight and scrutinise crime
- Maintain public order
- Defend and protect the inhabitants of the Republic and their belongings
- Support and apply the law

Criminal examinations can be distinguished as the reconstructive strategy that implements consistent thinking, grounded on exhibits and evidence at somebody's disposal, to find whether the suspect has committed the said wrongdoing (Bennett & Hess, 2004:4). This is additionally expressed by Orthmann and Hess (2013:8), who stipulate that criminal examination could be a reconstructive strategy that exercises coherent thinking and sensible process, whereby a theory trails from exact truths. Based on intensive bits of proof, investigators pick up confirmation that a suspect is guilty of crime.

According to the research that was conducted, the participants (of both samples – former police officials (Participants 1-4) and prosecutors (Participants 5-6)) defined criminal investigation as follows:

- **Participant 1:** *"The investigation of crime ..."*
- **Participant 2:** *"To uncover criminal activities ..."*
- **Participant 3:** *"To gather information, gather intelligence converted to information and then into evidence and presented to a court of law concerning a specific crime ..."*
- **Participant 4:** *"Where any crime is being committed and requires investigation as to determine the intent of the crime, the persons involved with the idea of arresting the suspects who are committing the crime ..."*
- **Participant 5:** *"Involves you speaking to the victim of crime, who would tell you if there are witnesses, then you have to take statements of the witnesses, then in regards to prosecution you have to have a look at all of these because you have to see what has been brought by those witnesses, have all the specific aspects to prove the crime been met ..."*

- **Participant 6:** *"The crime itself, if a crime is committed, each specific offence has their own elements of the crime, for example, say you have a crime of Murder, the elements of murder is unlawful, and intentional killing of another human being, so in order to have a case to prosecute the criminal investigation that goes into that, would be criminal investigation to bring out or show to the court that all of the elements have been met ..."*

The definition given by both samples is similar in that this definition is similar to that of Gilbert (2010:34), who indicates that the clarification of criminal investigation could be a sensible, unbiased, legitimate investigation connecting likely criminal activity, whereas Hess, Orthmann and LaDue (2016:8) characterize criminal examination as the strategy of information, collecting, analysing and offering evidence in a court of law, to find what happened and who is responsible.

## 2.3 THE OBJECTIVES OF CRIMINAL INVESTIGATION

According to Plnow.com (2016), criminal investigation can be seen as a task that searches, gathers and collects evidence of a crime for a situation or particular purpose. According to Law Library ... (2010), criminal investigation refers to the process of collecting data (or evidence) about a crime, to do the following:

- Establish if a crime has been committed.
- Categorize the suspect.
- Capture the suspect.
- Gather evidence to establish a successful prosecution in court.

The crime can be regarded to be resolved once the first three objectives are effectively accomplished. Information theory (Willmer, 1970:124) can be considered as a valuable aid in the criminal investigation method. According to the information theory, there's a battle over crime-related data within the criminal investigation process between the police and the culprit. When committing the wrongdoing, the suspect takes off "signals," or information of various sorts (fingerprints, onlooker depictions, murder weapon, etc.) that the police attempt to gather through investigative activities. In some case the suspect limits the amount of data for the police, or if the police fail to

recognise the data that has been cleared out behind by the suspect, the suspect will not be detained – thus “winning” the battle. The suspect might be recognized and detained in cases where the police are competent to accumulate a significant number of “signals” from the suspect, ensuing in the police winning. This perspective is agreed with by the researcher. Grounded on his experience, he is of the belief that at every crime scene there is constantly vital information left behind to progress into a significant criminal investigation, which can develop to an arrest, prosecution, and effective conviction – thus emphasizing the meaning of in creation in a criminal investigation.

According to Willmer (1970:124), the process includes the following:

- Obtaining the complainant’s statement with all pertinent information (proving whether a crime has been executed and identifying of suspects).
- Linking the suspects to the commission of the crime.
- Requisitioning all available documentation such as bank statements, cell phone records, etc. through section 204.
- Obtaining data on the Integrated Scientific Information System (ISIS) as well as on the Inkwazi system.
- Establishing the case number.

The following points can be viewed as a criminal investigation procedure that needs to be followed (PInow.com, 2016):

**Investigation:** The investigation incorporates setting up if a crime happened and whether an arrest ought to be taken after. After affirming the misconduct, the verification is collected, and a suspect known. If satisfactory evidence is collected, the suspect is arrested.

**Arrest:** The suspect is apprehended.

**Court Proceedings:** All the evidence gathered during the exploration is submitted to the court, and a verdict is made regarding punishment.

A crime may be an arranged act that's in inconsistency of the rules of law for a community. A criminal trial, in which punishment is sought after by the government, shifts from a respectful trial, which incorporates people examining their rights. Criminal acts, such as sexual assault, physical assault, murder, theft, property damage and vandalism, would call for investigators to gather evidence so that charges can be made (PInow.com, 2016). When gathering proof, certain rules and strategies must be followed through, and the proof must have certain useful qualities to demonstrate guilt in court. A criminal investigator is required when law enforcement investigations create little to no results. A criminal investigator can also be used to gather evidence, find witnesses, and collect unbiased facts about a crime for the criminal case.

A criminal investigator looks for clues and proof to decide whether a crime has been committed. In the event that a crime has been committed, investigators may consider the foundation of the accused, and attempt to reveal who committed the crime. Police officers and law enforcement agents are committed to criminal investigations of each kind, but a developing number of people are choosing to dispatch their own criminal investigations with the assistance of proficient investigators (PInow.com, 2016). For the purposes of this research, the crime of corruption/fraud would be the type of crime that is to be investigated, using investigative techniques such as interviews, crime scene photography, surveillance, profiling, and also Deoxyribonucleic Acid (DNA) profiling where applicable.

Du Preez (1996:4-7) states that "investigation takes place with clear objectives in mind." Becker (2000:8) approves the views of Du Preez (1996:4-7) that the purposes of an investigation are the following:

- Identification of the misconduct
- Collection of evidence
- Individualisation of the wrongdoing
- Arresting of the offenders
- Regaining of taken property
- Participation in the prosecution procedure



According to the research that was led, the participants of both samples were asked, "What are the objectives of criminal investigation?" They replied as follows:

- **Participant 1:** *"To gather all evidence, prepare a prima facie case for court, with the end result is to obtain a successful prosecution and conviction. With the purpose of identifying the suspects, to establish if there is a syndicate involved, to generally bring the crime level to an acceptable level ..."*
- **Participant 2:** *"The objectives would be outcomes, which is to identify and prosecute criminal activities with the ultimate aim of conviction. Criminal investigations ultimate goal is to address crime, crime patterns including forensic investigations etc., and information obtained from stations and crime prevention officers ..."*
- **Participant 3:** *"The objective is to determine whether the crime was committed, the unlawfulness of the crime, if it's a criminal syndicate, the activities of a criminal syndicate and the modus operandi of which they operate and gather all that information together with your surveillance, electronic surveillance, your human surveillance, put all that together and then present to the court ..."*
- **Participant 4:** *"To gather sufficient evidence and to prosecute the offenders."*
- **Participant 5:** *"To help the people of South Africa to live in a free society where there is no crime and where criminals are put where they supposed to be, because whenever there is a crime, there is obviously a criminal and where someone who has done something wrong, so they the wrongdoer who must be held accountable ..."*
- **Participant 6:** *"To successfully prosecute to obtain conviction as it is, to make sure justice is served whether it be conviction or not but when investigating one needs to investigate the bottom, of what is it that took place, is that person a real culprit or not ..."*

The opinions of both Du Preez (1996:4-7) and Becker (2000:8) are comparable to the opinions of the participants from both the samples.

### **2.3.1 IDENTIFICATION OF THE CRIME**

Atkinson (2010:158) states that in order to have a successful prosecution, the decision rests with the prosecuting authority, who has to work hand in hand with the investigator, resulting with a favourable prosecution. According to Shameem and Tuiketei (2012), the role of the investigator is to decide the problematic commission of unlawful offenses, to gather proof, addressing of the suspect, and state charges for the prosecutor. This segment implies that law authorization agency officers recognize that, eventually, they are responsible to the court. Brandl (2014:466) furthermore states that an investigator's part is to gather the proof within the case and, on the establishment of a reliable cause, and capture the person who committed the crime.

A similar response was given by the prosecutors who were interviewed.

Participants 5 and 6 from Sample "B" (prosecutors) were asked, "What is the investigator's role in the prosecution process?" They responded as follows:

- **Participant 5:** *"The investigator is the person that helps you, if I have a docket I will write in the docket get "ABC" statements, get this etc. Bring ballistic report, bring this etc. If there was a dead body, who pronounced him dead? The investigating officer and the prosecutor must work hand-in-hand, if the investigator does not want to work hand-in-hand it defeats the case."*
- **Participant 6:** *"What we do is we guide investigation they basically open up the case and bring it to us we read the docket, upon reading the docket, we would say ok we need A B C and D, collect this information in order to build a case so the investigators role will be to go out and do the actually investigation, would guidance from it terms of prosecution, we have to work hand-in-hand with the investigator, without the investigator we have no case lto investigate and it's impossible for prosecutors to go out to solve every case, it's not possible with the amount of workload that we have. So we have to say to the investigating officer, you do this and you do that, send this, the investigating officer is the person who knows the case inside out and will come tell you information about witnesses, accused persons, for that matter. We don't know it; we are dealing with the cases that comes to us."*

Brandl (2014:466) stipulates that police investigators are a portion of the prosecution squad, as they direct the investigation. Shameem and Tuiketei (2012:1) state that the character of the investigator embraces(holds) the investigation of the theoretical commission of a misconduct through the method of gaining statements, collecting of information/evidence, questioning of suspects, and conversation with the public *prosecutor for the essential supervision and commands.*

This eventually shows that the investigating officer is accountable for the situation from the start of the investigation to the prosecution stage, for the way in which they conduct interviews and investigations (Shameem & Tuiketei, 2012). The investigating officer will contact the prosecutor with the intention of discussing the docket, with the interpretation of obtaining further instructions, where essential, within a period of 14 days, for the following reasons (Commercial Crime Mandate, 2011):

- Assessing the evidence.
- Revising the management investigation plan where necessary.
- Adjusting the management investigation plan as deemed necessary from time to time.
- The prosecutor will provide the investigating officer with the necessary information plan for capturing on the Crime Administration System.

It is a basic step for a crime to be specified and recognized, not solely according to the legal necessities for the submission of evidence, but moreover through preliminary perceptions made at the crime scene (Marais & Van Rooyen, 1994:19). Proof recognized at a crime scene, at some stage in discussions with complainants, casualties and witnesses, can secure the sequence of events.

Evidence assembled in this approach can then be reflected, to control the unlawful nature of the happening, envisioning it out as an offence (Dowling, 1997:1; Horswell, 2004:7). The investigator should be able to comprehend and select all relevant data that can contribute in the crime committed, prior to it being collected (Byrd, 2004:1).

Identification moreover requires that the investigator is careful of the result of each and every possible source of data and has a best awareness of the evidential necessities of the one-of-a-kind sorts of crime (Du Preez, 1996:3).

The identification of the crime is started by the fundamentals of the crime. Agreeing to Adams, Caddell and Krutsinger (2004:10), only once detectives have affirmed that there has been no “foul play”, can they eliminate the truth that no wrongdoing has been committed. The investigation will commence on the evaluation of the crime scene, to get proof or data. Afterwards, investigators will have the ability to classify who the possible witnesses are, the essentials of the crime, and characteristics that can classify who executed the crime.

An important mission for an investigator is to familiarize them self with the environment in which a diversity of violations are committed, as that exact many times defines the modus operandi (MO) of the crimes committed. They moreover wish to apprehend and comprehend the law elimination, the exact crime committed, in order to stop plummeting time on irrelevant matters (Marais, 1992:2-3). The investigation will be mainly centred on the examination of the crime scene, to gain proof or information. Thereafter, investigators will be in a position to select who the possible witnesses are, the characteristics of the crime, and basics that can reveal who committed the crime.

### **2.3.2 COLLECTION OF EVIDENCE**

Gathering of proof begins at the crime scene, since the crime scene incorporates both unmistakable and hidden truths (Byrd, 2004:1). For Palmiotto (2013:98), a crime scene starts where the criminal begun the act of the crime and follows through to the escape way and places where the criminal may have cleared any proof. According to Angle, Mill operator and Braswell (2011:110), Edmond Locard is credited with recognizing the theory of exchange. Locard expressed precisely, that each single contact leaves a hint.

Excessive care needs to be taken to gather all the proof (Gaze, 2004:20; Fisher, 2004:55; Adams et al, 2004:71). Each piece of proof ought to be recognized, collected

and protected as a confined entity (Van Niekerk, 2000:7; Fisher, 2004:53). Evidence falls into two categories: testimonial evidence and physical proof (Fisher, 2004:1; Gaze, 2004:1).

Testimonial evidence is any account of an occurrence that has been viewed. Physical evidence refers to any "genuine" items that are existing at the scene of a crime (Byrd, 2004:1; James & Nordby, 2003:521). The investigation strategy rotates around the grouping of data, whether subjective or objective, through ways of potential of which the entire reality might also additionally be decided (Du Preez, 1996:2; Lee & Harris, 2000:13). According to Byrd (2004:1), the reason for collecting evidence at a crime scene is to do the following:

- Show that a crime has been committed.
- Set up any major factors of a crime.
- Point a suspect to a crime area.
- Find the identification of a victim or suspect.
- Validate verbal witness statement.
- Exonerate the innocent.

Gardner (2005:7) states that evidence is anything and everything that has the ability to confirm or disprove an element in contention.

The different types of evidence are as follows:

- Physical evidence: This can be accumulated in a range of forms, from a large building to a piece of fibre. The significance of physical evidence is explained by Fisher (2004: 1-2) and Byrd (2004:1), who said that physical proof can validate that a crime has been committed or establish vital characteristics of a crime.
- Direct evidence: This is evidence that confirms the truth, without the need for a justification or an assumption, and that, when true, convincingly proves the truth. An example is testimony by a dependable witness that reinforces the truth indicated in the testimony (Ogle, 2004:2).
- Circumstantial evidence: This includes a string of facts that reinforces the truth. This type of evidence is generally a series of circumstances from which a fair

hypothesis can be made, as to the authenticity of the fact at issue (Ogle, 2004:2).

- Testimonial evidence: This is proof given by a member of the common public/expert witnesses. The primary test for this kind of proof is the authenticity of the witness (Ogle, 2004:2).

All substantial proof at the scene of a crime needs to be collected carefully, and preserved in such a way that its identity, and the offender's integrity, are taken into consideration (Genge, 2002:8; Fisher, 2004:53). Support of contemptuousness and record-keeping of possession is of a crucial magnitude within the evidential process. According to Du Preez (1996:3), evidence is eventually provided at the trial, and is, in fact, the concluding product of an approach of finding, following, eventuating and identifying the pertinent information.

### **2.3.3 INDIVIDUALISATION OF THE CRIME**

Individualisation in investigation is whereby a felony is individualised as the appearance of a individual/individuals (Du Preez, 1996:6; Gardner, 2005:24). An Individual does not merely identify an item as such but connects it with supplementary examples of recognizable source with a vision to establishing uniqueness (Callanan, 1994:1; Ogle, 2004:9).

Dowling (1997:2) states that the main obligation of the investigator is to recognize who has committed the criminal activities. Lee and Harris (2000:14) are of the similar conclusions as Dowling. The significance here falls on the perpetrator's cooperation within the crime, the probability, essentially grounded on the statistics and data collected, that a special individual ought to have completed the crime, which the data collected is satisfactory to validate the capture of the suspect (Marais & Van Rooyen, 1994:20; Du Preez, 1996:7). The investigator prerequisites is to be certain that the exact individual is detained for the crime (Swanson, Chamelin & Territo, 2003:28). Confirming guilt conclusively moreover suggests that the culprit will be taken to justice for an explanation for their illegal activity. Usually this is whereby the precise and legal

guilt of the charged must be decided. It requires that the collecting of facts and proof needs to be driven in a legal way, so that the proof presented will surely be admissible in a court docket of regulation as evidence (Lambrechts, 2002:83) – the evidence delivered being of such a nature that the criminal act of the suspect is set up before any reasonable doubt (Du Preez, 1996:2).

#### **2.3.4 ARREST OF THE PERPETRATOR**

The objective of arresting a suspect is to guarantee their presence at the trial (Marais & Van Rooyen, 1994:20; Du Preez, 1996:7; Department of Justice ..., 1977; Kriegler & Kruger, 2002:90). An accused can moreover be summonsed or, by utilizing a written warning, added earlier than the court docket (Department of Justice ..., 1977). The key objective of the investigator is to observe who has committed the criminal activity and if there's satisfactory proof towards the suspect (Lee & Harris, 2000:14). Until this step is fulfilled, the investigator's typical work is generally spoiled (Dowling, 1997:2). Adams et al. (2004:59) state that the investigator does not go to an investigation or process the scene when a suspect may furthermore be present. In some incidents, in case there's no evidence in opposition to the suspect, the investigator cannot capture them. Orthmann and Hess (2013:665) state that the capture of potential suspects by the investigating officer must be done in discussion with the prosecutor, beyond reasonable doubt, for it to have a positive effect in the court hearing. They state the following:

"unless it appears that this higher burden of proof can be met, the criminal proceedings cannot ethically be commenced. Sometimes, therefore, the charging gaps result from the simple fact that the quantity and quality of evidence that may be more than enough to constitute probable cause nevertheless falls short of what would be needed to establish guilt at the trial (Orthmann & Hess, 2013:665)."

According to the Commercial Crime Mandate (2011), the SAPS entrusts the investigating officer with the investigation of a particular case for the purposes of investigation, consultation with the prosecutor, together with other relevant external specialists such as forensic, pathology, etc.

### **2.3.5 RECOVERY OF STOLEN PROPERTY**

The detective often tries to recover stolen property (Dowling, 1997:4). Du Preez (1996:7) disputes that the reason of recovering, for example, stolen property, in an investigation, is no longer only the minimisation of the victim's misfortune, but, furthermore, to utilise the recovered property as proof towards a suspect at a certain phase in the trial (Marais & Van Rooyen, 1994:21). The restoration of property ought to assist as proof that the suspect has committed the crime, and moreover help as exhibits. Section 300 of the Criminal Procedure Act 51 of 1977 can be utilised if there has been losses with respect to theft or extortion. To get enhanced results, the detective must recap the prosecutor of section 300 of the Criminal Procedure Act 51 of 1977 and probe them to place the request to the court, in order for the suspect to repay an exact amount as agreed in court.

### **2.3.6 INVOLVEMENT IN THE PROSECUTION PROCESS**

This objective is to help the public prosecutor in the prosecution phase, to demonstrate the evidence, and to recreate the crime within the court docket (Palm, 2000:35). In most cases, the detective will be asked to appear in court (Gardner, 2005:1). The effective prosecution of criminals ought to be subject to a great degree upon the intelligence and efficacy of the investigator who has executed the investigation (Du Preez, 1996:7; Adams et al, 2004:49).

The investigator's interest in the prosecution process furthermore includes the responsibility to ensure that each body (witnesses) and the entirety (material proof) is displayed in the court docket on the trial date (Du Preez, 1996:7). The relationship among the prosecutor and the investigator is one of operative and close cooperation, with a shared understanding of the different perspectives and operational independence of each occupation (Bekker, Geldenhuys, Joubert, Swanepoel, Terblanche, Van der Merwe & Van Rooyen, 2003:60). In order to guarantee a successful prosecution and sentence, it is crucial that the investigator has set up and acknowledged adequate proof of a connection between the accused and the crime (Bester, 2002:29).



## **2.4 THE PURPOSE OF CRIMINAL INVESTIGATION**

The main purpose of investigation is to stop crime (Du Preez, 1996:1). Lyman (2011:21) agrees with Du Preez (1996:1), reinforcing that investigations are occasionally led as a protective reaction, as beliefs stop the offender from executing additional crimes. Orthmann and Hess (2013:2) disclose the history of criminal investigation by recognizing three major roles:

- To prevent crime
- To promote justice
- To bring order into an otherwise disorderly environment.

Du Preez (1996) (as cited in Van der Westhuizen, 1996:4-7) is reinforced by Fisher (2004:48) and Gardner (2005:2) and, further recently, by Lyman (2011:15) and Orthmann and Hess (2013:11), who all describe the objectives of investigation to similarly include a reasoning that a crime has been committed, understanding the offender(s), positioning a sound criminal case for trial, and fetching the offender before court to reason for their action in the supposed offence.

O'Connor, Rausch, Albrecht and Klemencic (2008:154) and Braiden (2014) state that the aim of criminal investigation is to do the following:

- Inspect data or reports that establish a doubt that a criminal offence has been committed.
- Find, preserve and collect proof of criminal offences.
- Establish, regarding a certain criminal offence, if an accused can be linked.
- Decide whether sufficient reason exists for the prosecution of a suspect of a criminal offence.

The researcher agrees that to have a successful investigation, one needs dedicated criminal investigators who are qualified and have admittance to a large variety of tools as well as networks of investigators, surveillance equipment and record checks. Experience allows the investigator to recognise the evidence as well as procedures to

conduct the investigations efficiently. Criminal investigators also assist court processes by adhering to laws and regulations pertaining to investigations, to guarantee that the information is obtained in a legal manner.

Samples "A" and "B" were asked, "What is the purpose of criminal investigation?", and responded as follows:

- **Participant 1:** *"With the purpose of identifying the suspects, to establish if there is a syndicate involved, to generally bring the crime level to an acceptable level ..."*
- **Participant 2:** *"Criminal investigation's ultimate goal is to address crime, crime patterns including forensic investigations etc., and information obtained from stations and crime prevention officers ..."*
- **Participant 3:** *"The purpose of criminal investigation is to identify specific persons or groups of people who are involved in criminal activities and to ensure that they are prosecuted and that they are found guilty."*
- **Participant 4:** *"The purpose would be to secure a conviction against them through the process of prosecution."*
- **Participant 5:** *"The purpose is to ensure that justice is done and is seen to be done, because whosoever has been wronged, the person who has committed the crime has to face the consequences for whatever they have done ..."*
- **Participant 6:** *"The purpose is to find out who the perpetrator of the crimes is."*

According to the research that was conducted, the participants (of both samples – former police officials – participants 1-4, and prosecutors – participants 5-6) had similar views to that of Du Preez (1996:1), Lyman (2011:21), Orthmann and Hess (2013:2), O'Connor et al (2008:154) and Braiden (2014).

## 2.5 COVERT SURVEILLANCE TECHNIQUE

Tyska and Fennelly (1999:165) state that surveillance is the private and incessant recognizing of people, vehicles, places and objects, to collect data about the activities

and characteristics of a person or conditions. Van Rooyen (2001:99) portrays surveillance as the cautious and persistent observing of something or somebody, done in a private or tactful way, in order to gather proof on a subject.

MI5 (2019) states that surveillance, by nature, is covert when the subject is unaware that they are, or may well, be a subject of investigation that's taking place. Undercover observation is separated into two categories, both of which are subject to the Covert Surveillance and property interference code of practice. Undercover surveillance methods are utilised to ones benefit when the target isn't conscious of surveillance and is subsequently not on guard. In most occasions, people who are in the spotlight are beneath the radar professionally, or politically are habitually under suspicion.

To be able to accumulate data about a suspect, places of interest such as places and businesses are observed, in order to collect data around the suspect. Covert surveillance is regularly performed by government organisations and private agents employed for individual or business investigations.

For purposes of national security for nations such as the United States and the United Kingdom, a few large affiliations are utilised to collect data. In conjunction with the CIA of the United States and the United Kingdom's Secret Intelligence Service, exceedingly talented experts are utilised to supply official evidence for a case by an investigation being carried out subtly. Private investigators accomplish undercover surveillance investigations by various methods for a variety of motives (Li, 2019).

According to the research that was conducted, the participants (of both samples – former police officials – participants 1-4, and prosecutors – participants 5-6) were asked, “What is the meaning of 'covert surveillance technique'?”, to which they responded as follows::

- **Participant 1:** *"Something that is done from an undercover operation ..."*
- **Participant 2:** *"The investigation of crime as an undercover covert nature unconventional method, it's not available to your normal public eye ..."*
- **Participant 3:** *"Is understood in the investigation field as something that is used very covertly. Someone is equipped with a device, a recording device or camera"*

*to capture activities of certain persons that is being investigated, that evidence is looked at, gather further evidence, to continue further investigations and then presented to court."*

- **Participant 4:** *"A technique to gather evidence against criminals or syndicates unknown to them, so the gathering of this is done in such a way where they are unaware that they are being investigated and this would give us some honest and true reflection of their criminal activities ..."*
- **Participant 5:** *"Something that would not be easy for someone who is on the other side/field to intercept or to get used to it or to know what it is but those who are trained and practicing it they know what it is because it helps them to uncover investigation that might not be easy for other persons to get to it but if you apply those techniques through the procedure then it helps."*
- **Participant 6:** *"Basically, video footage. Video footage is out there where people do not know they are being caught on camera, it is actually hidden."*

The opinions of both samples were similar to one another, as well as to MI5 (2019) and London Private Investigators (2014).

## **2.6 CONCEPT OF ELECTRONIC SURVEILLANCE**

According to Pinow.com (2017), electronic surveillance is the observing of a home, business or individual, using a variety of devices, such as CCTV, legal wiretapping, cameras, digital video equipment, and other electronic, digital and audio-visual means. TechTarget.com (2014) defines wiretapping as the covert electronic monitoring of telephone, telegraph, cellular, fax or Internet-based communications.

Pinow.com (2017) states that modern-day electronic surveillance also refers to surveillance being done by computer, using various apps, as well as smartphones. Email tracking, Internet surveillance and remote personal computer (PC) are examples of computer surveillance. Recording, observing or listening to individuals in real-time with or without their knowledge, is considered as electronic surveillance. Electronic

surveillance is classically conducted secretively and does not restrict the individual's usual doings. In some instances, individuals utilise cameras with long-range capabilities, microphones, as well as monitoring cell, office and home phone services, to do surveillance. This action includes one or more individuals detecting and documenting another individual's activities (Study.com, 2018).

Law enforcement and government agencies utilise electronic surveillance for the purposes of preventing criminal activities, as well as preventing the respective states' acts of terrorism. Personnel security and the protection of property are the main reasons large and small companies utilise electronic surveillance techniques. Regardless, electronic surveillance is an efficient tool that can be utilised for crime prevention, and classifying potential acts of spying, theft and property damage (Study.com, 2018).

The act of monitoring and gathering of digital “footprints” left behind by suspects is seen as electronic surveillance. Reading text messages, examining Internet browsing history and social media, covertly activating webcams/microphones or even following a person on CCTV, is all seen as electronic surveillance (Aljazeera, 2017). Electronic surveillance is an immeasurable tool used for a variety of purposes, such as discovering valuable evidence against an individual who is suspected of committing a crime, or individuals who are a threat to the security of the state (Aljazeera, 2017). According to Aljazeera (2017), the definition of electronic surveillance is very similar to the responses of all the participants (of both samples).

According to the research that was conducted, the participants (of both samples – former police officials (participants 1-4) and prosecutors (participants 5-6) were asked, “What is your understanding of electronic surveillance?”. They responded as follows:

- **Participant 1:** *"Act 70s, CCTV footage, cameras, not much of physical surveillance ..."*
- **Participant 2:** *"To gather information using electronic devices, for example CCTV Act 70 ..."*

- **Participant 3:** *"It is used in many cases where it is impossible for our human resources to be used (such as investigations) to keep observations/surveillance on target/suspects that are under surveillance, as well as when undercover observations is conducted, electronic surveillance is then utilised; it is used quite extensively as it is more easily admitted in the court."*
- **Participant 4:** *"An additional tool for an investigator, or the officer, to gather information on criminal activity, such as tracking devices, listening devices, which is your tapping of cell phones, landlines GPS tracking ..."*
- **Participant 5:** *"Where there is a camera/something that captures what is happening at [a] particular time ..."*
- **Participant 6:** *"Surveillance done electronically, using digital technology to do surveillance, whether it is in the form of a video, listening devices, going into a person's records, anything that has to do with electronics."*

## 2.7 THE LEGAL PRINCIPLES INVOLVED IN THE USE OF ELECTRONIC SURVEILLANCE

RICA means "Regulation of Interception of Communications and Provision of Communication Related Information Act 70 of 2002" and came into effect on 30 September 2005. RICA is part of South Africa

Michalsons (2018) mentions that the Protection of Personal Information Act (named the PoPI Act or PoPIA) is known to halt the doubt about the law on the usage and handling of personal information. PoPIA is essentially the South African Data Protection Bill or Data Protection Act. It is not yet in effect (waiting for the Information Regulator to announce a commencement date).

The POPI Act stipulates the right to privacy protected in the Constitution and delivers result to this right by obligatory events and mechanisms for the management and indulgence of personal information. The POPI Act is in line with present international trends and laws on privacy. 'Processing' is defined, including the –

*"collection, recording, organisation, storage, updating or modification, retrieval, consultation, use, dissemination by means of transmission, distribution or making available in any other form, merging, linking, as well as blocking, erasure or destruction of personal information" (Michalsons, 2018).*

Section 14 (d) of the Constitution (South Africa, 1996) states: *"Everyone has the right to privacy, which includes the right not to have the privacy of their communications infringed"*. Section 7 (2) and Section 8 of the Bill of Rights also promote, respect and protect individuals' right to privacy, from both the state and non-state actors. Surveillance techniques are governed by laws and regulations in various states across the world, that regulate how these techniques can be utilised, and by whom. The invasion of one's privacy is of paramount importance; thus the compliance with laws and regulations are of the utmost importance. For this reason, it is imperative to never attempt electronic surveillance oneself. Not only will any findings be potentially inadmissible in court, but one may find oneself facing a lawsuit. A trained investigator has experience with electronic surveillance and knows the laws surrounding it (Pinow.com, 2017).

The participants' responses were in line with that of Pinow.com (2017). According to the research that was conducted, the participants of Sample B (prosecutors – participants 5-6) were asked, "What are the legal principles involved in the use of electronic surveillance?" They responded as follows:

- **Participant 5:** *"The authenticity of the video/recording, the person who has taken whatever is being used, the gadget that is being used, if it needs to be collaborated. It has to prove that there is collaboration, here is the certificate for the evidence to be admitted ..."*
- **Participant 6:** *"It must be done not in violation with anyone's right for, example to get into someone's bank account or phone data you need to apply for Section 205 subpoenas, it needs to be done via that route. It must be signed and approved by the relevant people. The different types of techniques/evidence*

*there is different legislations required in terms of the law that must be followed ..."*

This was similar to the responses given by Sample "A". According to the research that was conducted, the participants of Sample A (former police officials) were asked, "What is the procedural protocol for the use of electronic surveillance?" They responded as follows:

- Participant 1:** *"Extreme caution will have to be displayed with the investigating officer, with the crime intelligence department and operatives as it is bordering on the constitutional rights of an individual. There has to be an understanding and caution exercised and be careful that an individual's constitutional rights is not infringed."*
- **Participant 2:** *"Drafting of the statement, application through a magistrate and approval. That's only for ACT 70, your CCTV, GPS would just require the magistrate's approval."*
  - **Participant 3:** *"Gathering the necessary intelligence (your surveillance), putting up a founding affidavit, which is submitted to the commanders and then goes to the surveillance section, it is dealt with it and look at it and see whether it's fine and then it gets to your national office and lastly presented to the judge who is appointed in terms of the act, to approve or disapprove/ask for more information once that's approved. It gets to the communication Centre where the recordings/monitoring of the specific phones take place and then it comes down to be looked, that is with telephones. If you're looking at going further than telephone you can ask the judge also to give you authority to do recordings between two people."*
  - **Participant 4:** *"Strict procedure to follow, you need to apply and obtain a statement, that statement then needs to be supported with other documents, which is then submitted to a relative magistrate or judge depending on the application you are making, in order to give authority to proceed with the electronic surveillance ..."*



## 2.8 TYPES OF ELECTRONIC SURVEILLANCE

*West's Encyclopedia of American Law* (2008) states that electronic surveillance entails the use of electronic equipment and devices, which provides an opportunity to collect information on any individual at various intervals and durations. Surveillance devices in this modern-day era vary in cost, size and capabilities. The predominant types of electronic surveillance are wiretapping, bugging and videotaping. RICA means "Regulation of Interception of Communications and Provision of Communication Related Information Act 70 of 2002" and came into effect on 30 September 2005. RICA is part of South African legislation that oversees the interception or monitoring of paper-based and electronic communications (Michalsons, 2019).

Listed below are several of the more prominent methodologies (Study.com, 2018):

**2.8.1 Wiretapping:** TechTarget.com (2014) defines wiretapping as the secret electronic monitoring of telephone, telegraph, cellular, fax or Internet-based communications.

**2.8.2 Bugging:** The planting of a small electronic device on a person or in a strategic location, enabling individuals to listen in, copy and record real-time conversations.

**2.8.3 Pen register:** A device positioned on a telephone line used to identify the telephone number of calls made from the surveillance phone.

**2.8.4 Photographic surveillance:** Contains visual equipment such as closed-circuit television and digital cameras in numerous magnitudes used to photograph individuals.

**2.8.5 Wired agents and informers:** Includes the planting of a recording/listening device on a single person while engaged in a conversation.

**2.8.6 Drones:** Drones are proficient, highly advanced surveillance, and are already being used by law enforcement to carry various types of equipment, including

live-feed video cameras, infrared cameras, heat sensors and radar (Electronic Frontier Foundation, 2019). The usage of drones as an electronic surveillance is becoming more frequent, as Cape Town is using this electronic surveillance to combat crime (Caboz, 2019).

The participants were also mindful of different kinds of electronic surveillance that were recorded by Study.com (2018) and TechTarget.com (2014), namely bugging, wiretapping, photographic surveillance and pen register. According to the study that was led, the participants (of both samples – former police officials – participants 1-4, and prosecutors – participants 5-6) were asked, “Are you aware of the different types of electronic surveillance available? Name a few.” To which they had responded:

- CCTV (6 participants)
- Act 70 (5 participants)
- Recording device (5 participants)
- GPS (4 participants)
- Footage (3 participants)
- Camera (3 participants)
- Cell phones (3 participants)
- Telephone bugging (2 participants)
- Tracking vehicles (2 participants)
- Itemised billing on their cell phones to link their movements as well (2 participants)
- Recordings (1 participant)
- Messages (1 participant)
- WhatsApp messages (1 participant)
- Computer cybercrime (1 participant)

The participants were conscious of some of the diverse types of electronic surveillance that were recorded by Study.com (2018) and TechTarget.com (2014), namely wire-tapping, bugging, pen register and photographic surveillance.

## **2.9 CONCEPT OF ORGANISED CRIME**

According to Study.com (2018), organised crime can be a group of people, either native, national or international, that have dealings in criminal enterprises for income/benefit. The rationale following why they are established differs because they may be politically driven, financially motivated or an organised criminal 'gang.' According to Lebeya (2007:69) and Aslett (2018:3), South African law has not defined organised crime. Organised crime is thus not visibly known as some may want to believe. Von Lampe (2003:9-22) noted that in the non-appearance of a frequently recognized description, there remains an extreme deal of hesitation about what organised crime basically is.

The primary definition of organised crime, passed on to the attention of the police specialists in South Africa, was the definition by Hagan (1983:466-467), who indicated that “organised crime includes any group of individuals whose primary activity involves violating criminal laws to seek illegal profits and power by engaging in racketeering activities, and when appropriate, engaging in intricate financial manipulations”. The definitions applied by the police are said to demonstrate the goal for investigators to distinguish what they have to accomplish, and further, what they have to organise for the appropriate case for trial.

### **2.9.1 Organised crime syndicates**

According to Study.com (2018), there are three methods within which networks are shaped among organised crime. The main way is amongst a family, what we frequently discuss to as a mafia. This method of gangland functions through the reinforced hierarchies of the associated families, training of relations and dependence on faith, tradition and culture.

The second method within which a network is made is over a business. These organised crime clusters are rigid, have a complex power hierarchy and are impersonal. They tend to be exceptionally hazardous for members, due to the impersonal nature of the structure associates, the absence of familial or social loyalties

to alternate members, and the status of power relationships, in its place of protection of relations, as in the network (Study.com, 2018).

An example of a business that has merged organised crime would be to conduct bootleg actions, such as exchange, felony or drug traffic. These legal businesses integrate illegal organised crime techniques to support them in succeeding and earning more cash. An ill-famed example would be Bernard Madoff and his company associates. UN Agency Musical Group, a \$65 billion Ponzi scheme, was thought as one of the largest frauds in U.S. history, which took the life savings of over one thousand investors (Study.com, 2018).

The third manner in which a network is done is through a 'gang.' USLegal.com (2016) defines a gang as “a group of persons who go about together or act in concert, especially for criminal or illegal purposes. They are a group of people sharing a common identity. Many gangs have common identifying signs and symbols”. The *Cambridge Academic Content Dictionary* (2008:389) describes it as a “group of criminals or of people, especially young men and women, who spend time together and cause trouble: The clubs present an alternative to becoming involved in a gang.”

These members are typically recruited through members' involvement in crime as youth, and the connections created within these juvenile facilities. Members usually turn out to be part of a gang for protection or the requirement to fit in, usually because of their lack of support network in their homes. Some gangs have a loose hierarchy, particularly ones handling drugs, firearms or sex trafficking. Infamous criminal gangs embraced around the U.S. are the Aryan Brotherhood, Latin Kings and Hell's Angels (Study.com, 2018).

Organisational offenders regularly utilise blackmail, which is the practice of getting something, particularly cash, through force or threats, to get what they need. The association moreover typically defrauds companies and people by taking cars (to either exchange or take apart and offer the parts), burglary and extortion, to get what they need. Bodily harm may come to victims who don't comply, or to the individuals

themselves who do not take their roles genuinely or complete their allocated counterfeiting money and rigging public projects. These criminal associations utilise violence regularly.

One of the keyways that organised crime groups get cash is by drug trafficking and arms or weapons smuggling. Since this cash is unlawful and not competent of being set in a bank, these associations channel the money, or convert this cash into usable resources, such as real estate, vehicles or other tangible objects. Early instances in the 19th century is the following: towns were small and regulated themselves; however, pirates and criminals would attack people on rural roads or while conveying goods on bodies of water. These initial bandits were what we consider, in our modern day, to be members of organised crime. These crowds had their own rules, used violence as a tool and were usually related in some way to one another (Study.com, 2018).

The participants' responses were similar to the literature, but varied from participant to participant, with the basic idea being that organised crime is syndicated and involves more than one person. According to the research that was conducted, the participants (of both samples – former police officials – participants 1-4, and prosecutors – participants 5-6) were asked, “Describe what you understand by the term 'organised crime'.”. They responded as follows:

- **Participant 1:** *"When a crime is organised in a manner where various bodies involved, with banking institutions staff, people from government departments, are working in cahoots with outside individuals .... Syndicated operations with various peoples from different fields walk of life are involved ..."*
- **Participant 2:** *"Criminal syndicate or organisation that is put through a structured form of a criminal syndicate ..."*
- **Participant 3:** *"Organised crime is committed by more than two persons, they commit more than one offence with practical offences, and it is very enclosed to a specific number of people. It is not just managed and run by just anyone, it's specifically structured, if you look at the racketeering*

*organised crime act compared to POCA it specifically speaks about the manner in which the syndicates operate, so it is very sophisticated, infiltration into those syndicate are very impossible ..."*

- **Participant 4:** *"Organised crime is where a group of two or three people gather together with one-intent and that is to come for money, to gain or to enhance their status and position within a community for illegal gain."*
- **Participant 5:** *"It is a gang of people working together with a common idea of forming a group that is designed to do some type of crime it could be drugs, it could be prostitution , whatever that you name is those gangsters/ a bank robbers, in organised crime ..."*
- **Participant 6:** *"Crime that is organised, people sit and plan, plot and plan, they say "we going to do this" and "we going to do that" it's premeditated. It is more syndicated than the common crime itself."*

The participants' responses were similar to the literature, but varied from participant to participant, with the basic idea being that organised crime is syndicated and involves more than one person.

## **2.10 THE VALUE OF ELECTRONIC SURVEILLANCE IN INVESTIGATION**

The evidence concerning the debate on electronic surveillance has been wide-ranged and long-lasting. Empirical evidence on the topic has thus far not fully covered all its aspects (Ashby, 2017). The UNODC (2009) states:

- The importance of utilising electronic surveillance in the investigation of crime, specifically organised crime, is indisputable, as it permits the collecting of "impossible" evidence through other means. Various countries have engaged secret electronic surveillance for nearly a century, others see it as a new concept, while others have not utilised it at all. The use of electronic surveillance by law, it should be used when the less invasive methods have proved unproductive.
- When it is appropriate to use electronic surveillance, it will be seen as a contribution to other investigation methods in order to be most effective. For

those authorities without any regulation/legislation, the challenge is to create a stable system for the use of collecting electronic evidence. When electronic surveillance gathering is done for the purpose of gathering evidence, there must be a balance between evidence gathering and invasion of privacy, together with the public interest and the conviction weighed against the invasion of privacy. This includes matching the cost of employing these approaches against the eventual public advantage added from a conviction. These reflections should be considered cautiously by legislators and prosecutors.

- Electronic surveillance is comprised of an array of competences and practices. Previously, surveillance has been based on covert/overt distinctions and determined efficient by the amount of interaction with the target, whether remote or direct.
- Where overt/covert lines are not as easy to draw, these distinctions might, questionably, generate an incorrect contrast, mainly in the framework of modern surveillance technologies.

According to the research that was conducted, the participants of Sample “A” (former police officials, participants 1-4) were asked, “Have you used electronic surveillance in the investigation of crime?” They responded as follows:

- **Participant 1:** *"Definitely there is a value because ACT 70 will use the information obtained will be used in a court, in a criminal case surveillance CCTV footage can also be utilised in court to strengthen the criminal case . These are defining factors that should be considered to be used."*
- **Participant 2:** *"It would possibly identify suspects that would give you accurate information in terms of positively identify perpetrators in a crime, you would want to handle it yourself, it's the collective investigation in terms of forensic electronic surveillance and so forth. Forensics and technical surveillance and so forth will come on board ..."*
- **Participant 3:** *"Surveillance and particular electronic surveillance, it's gathered information that's desired which assist investigation to view the*

*recordings from there on you would task further action from whatever was recorded there ..."*

- **Participant 4:** *"It's supporting evidence, so it provides information about the activities and whereabouts of the criminals and Suspects, their location which they intend to hide and not make known to investigators."*

## **2.11 THE USE OF ACT 70 OF 2002 (RICA) AS AN INVESTIGATIVE TOOL IN THE INVESTIGATION OF ORGANISED CRIME**

The Regulation of Interception of Communications and Provision of Communication-related Information Act No. 70 of 2002 (RICA) came into effect in September 2005 (Israelstam, 2019). Lawful interception plays a crucial role in improving the investigation method. It signifies an important means of collecting criminal intelligence. RICA was designed to permit the state to intercept communications and provide communication-related information during the investigation of serious crimes. This technique becomes legal, and the information collected becomes admissible in court if it's done in agreement with RICA.

In *Thint (Pty) Ltd v National Director of Public Prosecutions and Others* 2008 12 BCLR 1197 (CC) and *Zuma v National Director of Public Prosecutions* (2009) 1 All SA 54 (N); (8652/08) (2008] ZAKZHC 71; *Zuma v National Director of Public Prosecutions* (2009) BCLR 62 (N), the court upheld that attorney-client right is to be considered seriously; however, it is a right that can be outweighed by countervailing deliberations. Similarly, in *S v Tandwa and Others* 2008 (1) SACR 613 (SCA), the court outlined that attorney-client privilege can be surrendered expressly, tacitly or by conduct adequate to attribute that the privilege has been surrendered by the client.

RICA offers direction and needs strict compliance with the procedure that must be undertaken once applying for an interception direction from the selected designated judge; when doing so, RICA demands thorough appreciation and application of Section 14 of the Constitution that relates to the right to privacy. SAFLII (2003) establishes the purpose of the Act as intended to do the following:



- To control the interception of some communications.
- The monitoring of some signals and radio frequency spectra and the provision of specific communication-related information.
- To standardize the creating of applications for, and the releasing of, directions authorising the interception of communications and the requirement of communication-related information under specific conditions.
- To adjust the execution of instructions and access warrants by law enforcement officers and the support to be given by postal service providers.
- Telecommunication service carriers and decryption major holders in the execution of such directions and entry warrants.
- To forbid the provision of telecommunication facilities which do not have the ability to be intercepted.
- To offer for certain costs to be borne by certain telecommunication service providers.
- To arrange for the creation of interception centres.
- The Office for Interception Centres and the Internet Service Providers Assistance Fund.
- To forbid the production, making, acquiring, selling, buying or advertising of certain equipment.
- To generate offences and to propose penalties for such offences.
- To provide for matters linked therewith.

Most significantly, the application process for an interception direction ought to be thought of as a final resort, because RICA seeks to protect against abuse of constitutionally protected rights. Michalsons (2009) explains that RICA offers that all forms of monitoring and interception of communications are illegal, except if the monitoring and interception takes place under one of the known exceptions in RICA.

There are numerous omissions to the general rule on the exclusion on intercepting communications.

According to the research that was conducted, the participants of Sample A (former police officials, participants 1-4) were asked, "Have you used Act 70 of 2002 (RICA) as an investigative tool in the investigation of organised crime?" They responded as follows:

- **Participant 1:** *"On numerous occasions it was excellent and very successful. It was a tool that was used to further investigation and to lead the investigation team on a path that was eventually successful. Definitely would recommend to others in fact it is a tool that is underutilised by the current detective services it should be more utilised because it is something that can really assist in the course of an investigation especially with organised crime ..."*
- **Participant 2:** *"It was a success, it identified other Associates that was not part of the initial organisation of the Syndicate, it exposed the extended syndicate grouping, organogram ..."*
- **Participant 3:** *"It's a fantastic act that was introduced to assist with the investigation of your serious organised crime and compliment your POCA."*
- **Participant 4:** *"On more than one occasion and this was in covert projects and it was a success ..."*

All the participants of Sample A had utilised Act 70 and even the POCA. Act 70, when utilised, was a success in all four participants of Sample "A".

POCA is normally separated into dual parts. The primary part of the Act, chapters 2 to 4, are provisions that are completely concerned with criminal prosecution and permissions of the numerous forms of organised crime, namely racketeering, money laundering and gangs. The supplementary part of the Act, chapters 5 to 6, are concerned with the civil recovery of property concerned with crime: Chapter 5 with the retrieval of takings of criminal activities, and Chapter 6 with loss of property that

operates as instrumentality of crime. The primary part is commonly referred to as POCA prosecutions, and the additional part as asset forfeiture law.

## **2.12 THE ADVANTAGES OF ELECTRONIC SURVEILLANCE IN THE INVESTIGATION OF CRIME**

Li (2019) states that electronic surveillance has various advantages, such as the following:

### **2.12.1 Public video surveillance improves public safety**

When a house security camera is fitted, a high level of improved house safety is achieved. The major advantage of surveillance cameras in community areas is to improve the safety of the public. Public surveillance cameras help members of the public to stay safe while clubbing, shopping, and travelling. Public security cameras can be used to keep an eye out for crimes. PTZ security cameras that are placed in public spaces, such as crossroads, shopping malls, car parks, museums and concert halls, offer uninterrupted surveillance. Furthermore, crimes can be avoided before they are even committed, in some cases.

If a questionable person/people or items are visible in an area, the appropriate authorities are contacted to see to it, before any harm is done/any crime is committed. According to a survey in 2015 by the National Center for Education Statistics, approximately 80% of public schools/universities utilise surveillance systems in public places to protect schools/universities (Fox, 2019).

### **2.12.2 Public surveillance cameras reduce crime rate**

Video surveillance statistics show that camera surveillance does reduce crime in some instances. If an individual is aware that there are live surveillance cameras in a certain area, they may be in fear to commit a crime, in the fear of being caught. Some authorities place public cameras in shopping malls and stores in the hope that this surveillance technique will help stop crimes from being committed.

### **2.12.3 Public video surveillance helps catch criminals**

There is a greater chance of catching a criminal if the crime was committed in an area where a public surveillance camera has been set up. There is software such as Facial Recognition, which has improved greatly over the years. Thus, if criminals are seen by security cameras in public places, the authority is able to recognise and catch the criminals with ease with the utilisation of facial recognition technology. By utilising facial recognition software, the authorities are able to create posters, and the descriptions can be aired on television and social media to help spread the word about the criminal.

Without the use of electronic surveillance in public places, it would be tremendously problematic to get a description of value, of the criminal, even if there were eyewitnesses.

### **2.12.4 Video cameras in public locations provide evidence and gather clues**

Any electronic recording that depicts a crime being committed can be used in a court of law as proof against the accused. In many cases, had there not been any electronic surveillance in public areas, there would have been little to no proof to sentence the criminal, and they may have gotten away with it. With more advanced electronic surveillance such as night vision security cameras, facial recognition of robbers can be seen even if the crime has been committed in the dark. In some cases, the public video surveillance footage can also help prove a person's innocence.

While conducting the research, Participant 6 of Sample B had stated:

*"Electronic surveillance is a positive tool because it's obviously assisting us to prove the crime against the perpetrator, wouldn't say negative because its negative only in a sense if you can't pick up anything, if the information that you've requested in this regard proves negative, in a sense it doesn't prove anything, it can't even look at it as a negative tool because it's probably letting an innocent person free. It's not always that the person you are investigating is guilty ..."*

### 2.12.5 Public video surveillance brings convenience for everyday life

Many cities have utilised surveillance cameras on stop lights, to reduce the number of people speeding/going through a red light. This also enables the relevant authorities to be able to monitor road situations with the live surveillance cameras. This helps to notify people of the traffic situations at any time.

## 2.13 CRIME INTELLIGENCE

According to Prenzler (2012:75), Smit, Minnaar and Schnetler (2004:168), Swanson, Territo and Taylor (2008:74) and Zinn and Dintwe (2015:445), intelligence can be perceived as the collecting of data through a progression that has been assessed, analysed and produced, with cautious conclusions and recommendations. Crime intelligence can be utilised in the prevention of crime, and organised crime, in order to direct investigations with the primary purpose being to reveal proof in the prosecution of violations (Milne, 2013:3; Prenzler, 2012:76).

Lyman (2013:117) is of the view that the primary purpose of crime intelligence is to gather evidence on criminal pursuits with the support of covert intelligence techniques, such as investigation, informers and undercover agents. He highlights that the explanation for the collecting of crime intelligence is to classify and apprehend major crime figures. After crime information is grounded in its irreplaceable state, it goes via a technique (the intelligence gathering process) in which the proof is verified and examined to be seen as crime intelligence. This analysis stage forms a fragment of the crime intelligence gathering process and entails of several steps – which will not be reviewed because of the limited scope of this study.

According to the research that was conducted, the participants of Sample “A” (former police officials, participants 1-4) were asked, “What do you understand by the term 'crime intelligence'”. They responded as follows:

- **Participant 1:** *"Crime intelligence is a unit that is basically able to gain/gather information that will assist the investigator or to identify criminal activities within the community business sector, only in a certain area to identify crime threats. Crime intelligence officers normally work very closely with the investigating officer ..."*

- **Participant 2:** *"Intelligence cycle is the gathering of information, when verified leads to intelligence ..."*
- **Participant 3:** *"Investigative point of view rely on crime intelligence to assist with the crime threats analysis but also to identify specific types of offences that fall within the organised crime category which are normally then referred to the investigation unit for further investigation, so effectively we could say the collection and they conduct undercover operations with regards to the intelligence that was gathered ..."*
- **Participant 4:** *"Crime intelligence is the gathering of information on crime specifically regarding criminal activity of a group or individuals that are involved in crime ..."*

The participants' responses were in line with the literature, with the main definition of crime intelligence being the process of gathering information.

## **2.14 THE ASSISTANCE OF ELECTRONIC SURVEILLANCE TO PROSECUTORS DURING THE PROSECUTION PROCESS**

According to the UNODC (2009), the use of unconventional methods by law enforcement agencies, such as electronic surveillance, should not be the first line of investigation. Electronic surveillance should be utilised when there is merit for such use, when less intrusive methods have been found to be ineffective and inefficient, unless the seriousness of the crime demands the use of covert surveillance. Electronic surveillance is not a standalone investigative tool but is used in conjunction with other investigative techniques and methods, which results in greater success of prosecution and conviction.

For those jurisdictions, excluding any regulation/legislation which is lacking in some respect, the responsibility is to support a balanced system for the usage of digital evidence collecting. The stability which desires to be struck is that between the advantageous use of electronic proof gathering and the safety of citizens' rights. This consists of balancing the value of making use of these techniques towards the ultimate

public advantage gained from a conviction. These concerns must be weighed cautiously by legislators, prosecutors, law enforcement.

It should also be noted that, in some countries, a federal system of governance capability exists so that electronic surveillance can be regulated at both a local and at a country-wide level. Federal law will often practise where the investigation is into crime that crosses borders; however, organised crime is of course also investigated by using local law enforcement. It is now not feasible for this report to comprehensively consider legislation of respectable states, areas or provinces within countries, even though their point of mention will take place where valuable examples arise (UNODC, 2009).

According to the researcher, who is a member of the SAPS intelligence environment, whose main core function is the gathering of information/intelligence by means of informers, agents and contacts, targets are identified. Once an assessment of the information/intelligence is done and is categorised, and if it falls within section 16 (5) of RICA, an application is done by the applicant by means of an affidavit, to the designated judge.

Once an application submitted in terms of RICA is approved, the necessary service providers will be activated, such as MTN (Mobile Telephone Network), Vodacom, Cell C and Telkom. Activation is done by means of a direction by the designated judge to the service providers via an interception communication centre established in the SAPS. Information obtained from the service providers is placed on a disk by the service provider for the applicant/authorised person via the interception communication centre, who, on receipt, will forward it to a transcriber, who will then transcribe the material from its “raw” form to a written form (that which is necessary). The transcribed information is assessed for the purposes of information/intelligence gathering or evidence gathering by the intelligence officer/operative, who will determine the value of the information in relation to the investigation, for purposes of prosecution and conviction or intelligence gathering.

The value of RICA for the purposes of information/intelligence gathering, as well as evidence gathering, has proved to be immeasurable. In some instances, RICA material has been regarded as A1 evidence by a court of law, where cash-in-transit suspects were convicted for conspiracy to commit a crime based on Act 70/2002 (RICA) evidence.

Information obtained from an Act 70/2002 (RICA) direction can also be used as intelligence investigation for purposes of giving direction to criminal investigations, or assisting in cases of crimes against the state, for the purposes of gathering evidence, information or intelligence.

According to the research that was conducted, the participants of Sample B (prosecutors, participants 5-6) were asked, "How, in your experience, does electronic surveillance influence the prosecution process?" They responded as follows:

- **Participant 5:** *"because most of the time you will find that in those cases where a syndicate is involved and there are people that are scared of coming forward to give evidence, so when you have such type of evidence then you have challengeable evidence that you can provide to the court, even if I don't have Witnesses to say "ABC" but I've b00 got "this" and "this" shows the court, if it is something that is recorded or transcribed, cell phone conversations, then you'll have real evidence to produce to the court."*
- **Participant 6:** *"maybe in increasing the number of convictions that we get because we get different types of evidence ..."*

## 2.15 SUMMARY

According to the researcher, there is strong evidence which suggests, without a doubt, that the use of electronic surveillance as a covert technique in the investigation of organised crime is a technique utilised throughout the world as a covert tool which has produced positive results in the fight against crime, especially organised crime.



One major concern which has been raised throughout the globe, however, is the issue of violation of an individual's privacy. It has been strongly indicated, above, that the use of electronic surveillance is of pivotal importance in the fight against crime; however, besides the issue of invasion of privacy mentioned above, the aspect of legality and authenticity when produced as evidence in a court of law, is an issue of concern.

Another point of concern is that covert electronic surveillance should be utilised as a secondary form of investigation when other forms of primary investigation have failed or have not yielded the desired results. Due to the ever-increasing sophistication in crime, especially organised crime, and the use of ultra-modern technology in furthering crime, some of which have not been formally introduced in the world, it has become imperative for law enforcement agencies to step up their technology in the fight against crime. Some forms of advancement in the use electronic surveillance is the use of drones and hot air balloons.

## **CHAPTER 3**

# **RESEARCH FINDINGS, RECOMMENDATIONS AND CONCLUSIONS**

### **3.1 INTRODUCTION**

This chapter reviews the discoveries that are reasoned from the data that had been collected from various sources. The chapter will moreover reflect on suggestions, or the presentation of the research findings, with the viewpoint of the challenges that was previously underlined in the problem statement.

The main reason for this research was to assess electronic surveillance as a covert technique within the investigation of organised crime. Research is envisioned at gaining certain conclusions and discoveries. These discoveries may be a straight resultant from the data obtainable by sources of information within the research. Research may be an efficient process of gathering and investigating data to gain an understanding of the phenomenon beneath a query and communicating that which is exposed to the bigger scientific community (Leedy & Ormrod, 2001:4). This communication is also done in a precise way by summarizing the discoveries into the findings.

According to Heymann (2015), due to the rise of technology and international drug routes organised crime has become an international problem rather than a regional problem with a focus on technology and law enforcements. Electronic surveillance when used correctly (taking into account procedural and legal requirements) will have a positive outcome in the investigation of crime, more especially organised crime due to its sophisticated, operational nature, this is evident with criminal syndicates using drones as well as hot air balloons in their criminal operations.

## **3.2 FINDINGS**

In addressing the research aim, the researcher utilised literature, both national and international, as well as police circulars, together with the interviewing of former experienced police officials (investigators and intelligence operatives), together with prosecutors of the justice department. The researcher further addressed the research question: the value of electronic surveillance as a covert technique in the investigation of organised crime (Naicker, 2017:72).

### **3.2.1 The value of electronic surveillance as a covert technique in the investigation of organised crime**

Electronic surveillance is an immeasurable tool used for a variety of purposes, such as discovering valuable evidence against an individual who is suspected of committing a crime, or individuals who are a threat to the security of the state (Aljazeera, 2017). The use of electronic surveillance in the investigation of crime comes with its own sets of challenges: a constitutional challenge in terms of the invasion of privacy versus addressing crime and crime syndicates – and in some cases the sovereignty of the state. During the interviews conducted, all participants raised the concern of legality in terms of information/evidence obtained through electronic surveillance as admission of evidence in a criminal case. To avoid a trial within a trial, in terms of admissibility of evidence obtained through electronic surveillance, all participants again reaffirmed the necessity for obtaining information/evidence through electronic surveillance from the outset through correct procedures and requirements.

It was further raised by one participant that, from their experience, information obtained through electronic surveillance also came with a further new challenge raised by organised crime syndicates in a criminal case, where the security clearance of the police official handling such information was questioned. MI5 (2019) states that surveillance by nature is covert when the subject is unaware that he is or could be a subject of an investigation that is taking place.

Pinow.com (2017) describes electronic surveillance as the monitoring of a home, business or individual, using a variety of devices such as CCTV, legal wiretapping, cameras, digital video equipment, and other electronic, digital, and audio-visual, including surveillance being done by computer using various apps as well as smartphones. Email tracking, internet surveillance, and remote PC are examples of computer surveillance.

UNODC (2009) states that the importance of utilizing electronic surveillance in the investigation of crime, specifically organised crime, is indisputable, as it permits the collecting of “impossible” evidence through other means. Therefore, electronic surveillance, taking into account the various sources of literature, as well as interviews conducted with the various respondents, is an immeasurable tool/aid in the investigation of crime and/or organised crime.

Although the use of electronic surveillance is a great asset in an investigation, management by means of checks and balances to ensure the non-abuse of these mechanisms for purposes of monetary value, domestic abuse, political abuse or any forms, other than official purposes, is imperative. Regular management control at the various investigative institutions is to be thoroughly maintained with various documentation required substantiating reasonable cause for such electronic surveillance.

### **3.2.2 Concept of criminal investigation**

The definition given by both samples (participants 1 to 6) were similar to each other. When compared to the literature, their definition was similar to that of Gilbert (2010:34), who states that the meaning of criminal investigation is a balanced, objective legal examination linking probable criminal activity, and Hess et al (2016:8), who describes criminal investigation as the technique of knowledge, gathering, analyzing and giving evidence in a court of law, to find out what occurred and who is accountable.

Taking the above into account, criminal investigation can be seen, according to the researcher, as the uncovering of criminal activities. It can be seen as the process of gathering information regarding a crime/criminal activity, which includes speaking to the victim, gathering evidence, gathering witnesses, taking witnesses' statements, etc. It is also seen as the process of linking a suspect to a crime.

### **3.2.3 The objectives of criminal investigation**

With regard to the objectives of criminal investigation, participants 1-6 were similar to each other. When compared to literature, their definition was also similar to that of Du Preez (1996) (as cited in Van der Westhuizen, 1996:4-7), who positions that the purposes of criminal investigations include the following:

- Recognition of the crime
- Collecting evidence
- Individualisation of the crime
- Detaining the criminal
- Revival of stolen property
- Participation in the prosecution process

According to the researcher, the objective of criminal investigation, taking the above into account is to conduct the investigation with the utmost accuracy, ensuring that all possible evidence is collected, thus ensuring that the investigation would gain a successful conviction and justice if served in a court of law.

### **3.2.4 Identification of the crime**

According to Shameem and Tuiketei (2012), the role of the investigator remains to find the alleged commission of illegal crimes, to accumulate proof, interrogate suspects and specify charges for the prosecutor. This implies that police officers understand that, eventually, they are responsible to the judges for the approach in which the investigation is carried out. A similar definition was given by the prosecutors who were interviewed (participants 5 and 6). Brandl (2014:466) furthermore states that the

investigator's role is to gather the evidence in the cases, and, on the source of reliable cause, to categorize and arrest the individual who committed the crime.

In view of the above, the researcher is of the opinion that the identification of the crime be subjected to on the elements of a crime. This subsequently gives the investigator a major role in the identification of a crime. The prosecutor and investigator act together when identifying a crime, with the prosecutor directing the investigation to guarantee that, when identifying a crime, all the proof is admissible in a court of law.

### **3.2.5 The purpose of criminal investigation**

The researcher agrees that to have a successful investigation, one needs dedicated criminal investigators who are qualified and have admittance to a large variety of tools, as well as networks of investigators, surveillance equipment and record checks. Experience allows the investigator to recognise the evidence, as well as procedures, to conduct the investigations efficiently. Criminal investigators also assist court processes by adhering to laws and regulations pertaining to investigations, to guarantee that the information is obtained in a legal manner.

According to the research that was conducted, the participants (of both samples – former police officials, participants 1-4, and prosecutors, participants 5-6) held similar views to one another as well as that of Du Preez (1996:1), Lyman (2011:21), Orthmann and Hess (2013:2), O'Connor et al (2008:154) and Braiden (2014).

### **3.2.6 Organised crime syndicates**

The participants' responses were similar to Study.com (2018), but varied from participant to participant, with the basic idea being that organised crime is syndicated and involves more than one person.

### **3.2.7 The use of Act 70 of 2002 (RICA) as an investigative tool in the investigation of organised crime**

All the participants of Sample "A" had utilised RICA; even the POCA Act, when utilised, was a success in all four participants of Sample "A".

### **3.3 RECOMMENDATIONS**

The key reason of any research is to identify an issue, explore the issue, and shape potential remedial measures. According to Hofstee (2006:159), these recommendations are also known as “suggestions” for the request of research, and must be sensible to execute, and clearly useful. Points grounded on the realities that were uncovered during the research, are the following:

#### **3.3.1 The value of electronic surveillance as a covert technique in the investigation of organised crime**

The reviewed literature revealed the purposes of criminal investigation as being to identify crime, discover and recognize potential offenders, collect , gather and process evidence, arrest criminals, recover property, take offenders before court, and secure a conviction (Lyman, 1999:169; Stelfox, 2013:2; Du Preez, 1996:4-7; Osterburg & Ward, 2010:8; Becker & Dutelle, 2013:17). According to the researcher, in light of the above literature and the interviews that were conducted, it is recommended that the objectives of criminal investigation be reintroduced and reinforced at various levels of training, including 'on the job' training. Training courses in SAPS require funding – which can have limitations in terms of the use of electronic surveillance. One of the impediments is also whereby trained members in electronic surveillance are being transferred or promoted to other departments where their training/expertise is not recognised or utilised. The aim of this research was to evaluate electronic surveillance as a covert technique in the investigation of organised crime.

A strong research question is extremely important and sets the scene for the development of a rich research aim and objective that are intricately linked. According to the researcher's experience, the use of electronic surveillance by the SAPS as a technique in criminal investigation, is generally used as a covert technique, due to its secretive nature of obtaining information/intelligence/evidence, and is a 'must' for the covert environment regarding intelligence-driven or court-driven investigations. Due to the ever-changing electronic sphere such as social media platforms like WhatsApp,

video calling, Skype, data calling, etc., the Regulation of Interception of Communications and Communication-related Information Act 70 of 2002 has begun to have its limitations in terms of interception and monitoring for purposes of investigation, and, if not urgently revamped, it may not have the desired effect on the ever-changing criminal technological mind.

### **3.3.2 The role of electronic surveillance**

From the above discussion, the researcher believes that electronic surveillance plays a pivotal role in addressing serious organised crime, which has increased nationally and internationally at a phenomenal level, whereby monetary returns can be as high as US \$70 million per day (roughly \$26 billion in a year) in cases of drug trafficking – as in the case of Pablo Escobar (Alchetron, 2014). It has therefore become imperative for electronic surveillance to become a standardized tool for investigators and intelligence operatives. This should be introduced at the various training academies for police officials who have already been vetted in terms of security clearances, so as to keep the methodology 'intact'.

### **3.3.3 Recommendation of electronic surveillance**

It has been established, from the above findings, that all the respondents (police officials and prosecutors) highly recommend the use of electronic surveillance as a covert technique in the investigation of crime, or organised crime – which has reached a disproportionately high level, as mentioned by three of the participants (police officials and a prosecutor), who recommended that the use of electronic surveillance, for example Act 70 of 2002 (RICA) should not be utilised for everyday crime, but rather for the investigation of organised crime. They further recommended that police officials undergo specific training in the use of electronic surveillance as a tool in the investigation of organised crime, so as to understand the legal requirements needed in the prosecution of criminal elements; also, so that when instructions are given in the docket by the prosecutor, the investigating officer fully understands what is required of him in the prosecution phase.



The researcher, who has extensive experience in the intelligence environment, and based on his interaction with various investigators and intelligence operatives, can safely say that to effectively and efficiently address criminality and its participants, intelligence is at the forefront of investigations. The researcher believes that to evaluate investigative techniques, one needs to understand the purpose of these techniques and the role they play in an investigation. The techniques applied are multiple and are chosen according to the circumstances and the investigation requirements.

### **3.4 CONCLUSION**

The research is now fully completed, and has addressed the problem statement, in that it can be able to assist prosecutors, investigators and intelligence operatives in the fight against crime by the efficient and effective use of electronic surveillance in addressing crime and organised syndicates. This can be done through various interactive means such as introductory courses/workshops at basic training, introduction of intelligence techniques (electronic surveillance) at various courses, as well as 'on the job' training/mentorship programs.

According to Locke et al (2007:9), the purpose statement indicates “why you want to do the study and what you intend to accomplish.” According to Korbedpsych.com (2018), the purpose of the study should explain the final conclusions that the research study hopes to reach. There ought to be a motive for doing research, or else there would be no point in spending time, money and effort in starting the investigation (Denscombe, 2002:25). It can be concluded from the above that the use of electronic surveillance as an investigative tool in addressing organised crime and other serious organised syndicated crimes, cannot be more emphasized as a technique in investigation. The various investigative techniques that are used as a gathering tool need to be considered, due to the sophisticated technology used by criminal syndicates.

According to Letlatsa (2008:10), “[t]here is great concern about organized crime penetrating the organs of the state in South Africa, through corruption.” This is quite

evident in the current commission of enquiry by Deputy Chief Justice Masondo regarding state capture and the influence of the Gupta family, who are civilians, and their control and influence on the state through politicians, for monetary gain. The researcher has shown, through this research, the importance of electronic surveillance as a covert technique in the investigation of crime or organised crime. UNODC (2009) states that the importance of utilising electronic surveillance in the investigation of crime, specifically organised crime, is indisputable, as it permits the collecting of 'impossible' evidence through other means. Various countries have engaged secret electronic surveillance for nearly a century, others see it as a new concept, while others have not utilised it all.

The researcher was able to tackle the research question by applying the design and methodology of this research, which evidently revealed that electronic surveillance as a covert collection tool in the investigation of organised crime should follow a logical sequence in order to be effective and efficient.

The finest electronic technological surveillance systems that are accessible on the market can be suggested for the SAPS, but if there is a lack of knowledge in its use or in terms of its procedural admissible requirements, or when there is a lack of management or poor management, the use of electronic surveillance will be totally flawed in that it would not have the desired effect for which it was intended. The commitment of commanders, investigators, intelligence operatives and prosecutors on all levels is important for the success of any electronic technological surveillance strategy that may be put in place. It is also important that commanders, investigators, intelligence operatives and prosecutors complete a course on the use and procedural requirements of electronic surveillance as an investigative tool, as these courses will better equip them on the importance of electronic surveillance as an investigative tool.

Investigative methods used to help investigators in their efforts, and are utilised around the world; however, not all techniques are accessible or authorized in every jurisdiction. Jurisdictions will have modifications in which procedures require judicial authorization or the application of a special procedure (naturally for coercive

measures such as search warrants, bank account information and electronic surveillance) and which do not (typically, non-coercive measures such as gaining publicly accessible information and intelligence from other government agencies). It is important that investigators determine which methods are lawful in law, and that all legal requirements, policies and procedures are supported

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## ANNEXURE “A” Interview Schedule “A” – Former Police Officials

### PARTICIPANT NUMBER

01-04

**TOPIC:** An Evaluation of Electronic Surveillance as a Covert Technique in the Investigation of Organised Crime

**AIM:** The aim of this research is to evaluate electronic surveillance as a covert technique in the investigation of organised crime.

**RESEARCH QUESTION: Can electronic surveillance be used as a covert technique in the investigation of organised crime?**

You are kindly requested to answer the following questions in this interview schedule, for the researcher. The questions, responses and the results will be revealed.

Privacy will be maintained throughout the study, the researcher will ensure that participants are treated equally regardless of their socio-economic status, whether illiterate or learned and privacy will be maintained throughout the study. The information given will be treated with confidentiality and no other person will have access to interview data. The participants to the research will remain anonymous. The information you provide will be used only in a research project for a Masters of Technology degree registered with the Programme Group: Police Practice at the University of South Africa. The analysed and processed data will be published in a research report.

Your answers will be noted by the interviewer himself, on paper and by Dictaphone. Should any question be unclear, please ask the researcher for clarification. Only one answer per question is required. When answering the questions, it is very important to give your own opinion.

### PARTICIPANT

I hereby give permission to be interviewed and that information supplied by me can be used in this research.

YES / NO

## SECTION A: SECTION A: BACKGROUND INFORMATION

A.1 What was your previous employment?

--

A.2 How many years were you in your previous employment?

1 – 5 yrs	5yrs – 10 yrs	10yrs and above
-----------	---------------	-----------------

A.3 What were the responsibilities of your previous employment?

--

A.4 How many years of experience do you have in the field of investigation?

--

A.5 What are your academic qualifications?

--

A.6 Have you under gone any courses/seminars in the field of investigation?

YES	NO
-----	----

## SECTION B: ELECTRONIC SURVEILLANCE AS COVERT INVESTIGATION TECHNIQUE

1. What is your understanding of electronic surveillance?
2. Define criminal investigation.
3. What are the objectives of Criminal investigation?
4. What is the purpose of criminal investigation?
5. What is the meaning of “covert surveillance technique”?
6. What is your understanding of covert technique?

7. Have you used electronic surveillance in the investigation of crime?
8. Name the different types of electronic surveillance?
9. Have you used act 70 of 2002 (RICA) as an investigative tool in the investigation of organised crime?
10. What are the procedural protocols for the use of electronic surveillance?
11. What do you understand by the term "Crime intelligence"?

## **ANNEXURE B - Interview Schedule B –Prosecutors**

PARTICIPANT NUMBER

05-06

TOPIC: An Evaluation of Electronic Surveillance as a Covert Technique in the Investigation of Organised Crime

AIM: The aim of this research is to evaluate electronic surveillance as a covert technique in the investigation of organised crime.

RESEARCH QUESTION:

Can electronic surveillance be used as a covert technique in the investigation of organised crime?

You are kindly requested to answer the following questions in this interview schedule, for the researcher. The questions, responses and the results will be revealed. Privacy will be maintained throughout the study, the researcher will ensure that participants are treated equally regardless of their socio-economic status, whether illiterate or learned and privacy will be maintained throughout the study. The information given will be treated with confidentiality and no other person will have access to interview data. The participants to the research will remain anonymous. The information you provide will be used only in a research project for a Masters of Technology degree registered with the Programme Group: Police Practice at the University of South Africa. The analysed and processed data will be published in a research report.

Your answers will be noted by the interviewer himself, on paper and by Dictaphone. Should any question be unclear, please ask the researcher for clarification. Only one answer per question is required. When answering the questions, it is very important to give your own opinion.

## **PARTICIPANT**

I hereby give permission to be interviewed and that information supplied by me can be used in this research.

YES / NO

---

### SECTION A: BACKGROUND INFORMATION

A.1 What is your current employment?

A.2 How many years have you been in your current employment?

1 – 5 yrs	5yrs – 10 yrs	10yrs and above
-----------	---------------	-----------------

A.3 What are the responsibilities of your current employment?

A.4 How many years of experience do you have in the field of prosecution?

A.5 What are your academic qualifications?

A.6 Have you under gone any courses/seminars in the field of prosecution?

YES	NO
-----	----

### SECTION B: Electronic surveillance as a covert investigation technique



1. Does electronic surveillance assist prosecutors during the prosecution process, if so how?
2. Define criminal investigation.
3. What are the objectives of Criminal investigation?
4. What is the purpose of criminal investigation?
5. What is meant by the term “covert surveillance technique”?
6. What do you understand by the term electronic surveillance?
7. What are the legal principle involved in the use of electronic surveillance?
8. Are you aware of the different types of electronic surveillance available, name a few?
9. Describe what you understand by the term organised crime?
10. How, in your experience, does electronic surveillance influence the prosecution process?

## **ANNEXURE "C" - Permission withdrawal correspondence from Crime Intelligence.**

3/20/1

### **INFORMATION NOTE**

The Divisional Commissioner  
**CRIME INTELLIGENCE**

**PERMISSION TO CONDUCT RESEARCH IN SAPS: AN EVALUATION OF ELECTRONIC SURVEILLANCE AS A COVERT TECHNIQUE IN THE INVESTIGATION OF ORGANISED CRIME: UNIVERSITY OF SOUTH AFRICA: MASTERS DEGREE: RESEARCHER: JS CHETTY**

#### **PURPOSE**

1. The purpose of this Information Note is to request approval in line with Divisional Commissioner: Research letter 3/34/2 dated 2018-12-05. (Annexure "A")

#### **BACKGROUND**

2. The office of the Divisional Commissioner: Research, is responsible for the processing of research requests from external researchers.
3. The process which is currently followed based on the National Instruction 1/2006 (Annexure "B") proceeds as follows:
  - 3.1 Research proposals on SAPS related topics/issues from external and SAPS researchers involved in academic studies are received by the office of the Divisional Commissioner: Research.
  - 3.2 Proposals have to be university approved before submission and the researcher must attach a confirmation letter signed by the supervisor.
  - 3.3 Proposals are perused by the office of the Divisional Commissioner: Research and recommended to the relevant line managers to be considered for approval.
  - 3.4 The Divisional Commissioner: Crime Intelligence then considers the advantages and disadvantages of the specific research proposals received for the Division and grants permission with mentioning of specific criteria that must be adhered to before commencing of such research.
  - 3.5 If approval is granted by the Divisional Commissioner: Crime Intelligence, the office of the Divisional Commissioner: Research obtains a signed undertaking from the researcher.

**PERMISSION TO CONDUCT RESEARCH IN SAPS: AN EVALUATION OF ELECTRONIC SURVEILLANCE AS A COVERT TECHNIQUE IN THE INVESTIGATION OF ORGANISED CRIME: UNIVERSITY OF SOUTH AFRICA: MASTERS DEGREE: RESEARCHER: JS CHETTY**

- 3.6 A final approval letter is then issued to the researcher by the office of the Divisional Commissioner: Research.
- 3.7 After final approval the researcher will then make contact with the specific person tasked with the function at the Division to proceed with the relevant research study.
4. The Provincial Head Crime Intelligence Kwazulu-Natal has recommended the application. (Annexure "C")

**5. RECOMMENDATION**

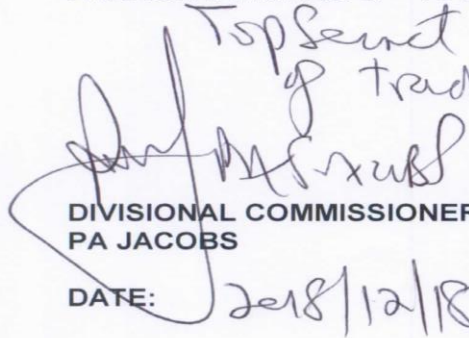
It is recommended that permission be granted in line with paragraph four of the attached letter as per Annexure "A".

6. Draft reply to Division: Research is attached for your signature if in agreement.

  
**SECTION HEAD: HUMAN RESOURCE MANAGEMENT: CRIME INTELLIGENCE**  
**JH BELLINGAN**

**DATE:** 2018/12/18

**PARAGRAPH 5 AND 6: APPROVED / NOT APPROVED**

*Top Secret environment and over exposure of trade craft*  
  
**LIEUTENANT GENERAL**  
**DIVISIONAL COMMISSIONER: CRIME INTELLIGENCE**  
**PA JACOBS**

**DATE:**

2018/12/18

## ANNEXURE “D” – Permission withdrawal correspondence from DPCI.

SOUTH AFRICAN POLICE SERVICE			SOUTH AFRICAN POLICE SERVICE	
Private Bag x1500				
<b>Reference:</b>	26/2/2	<b>SECTION HEAD</b> <b>MANAGEMENT INFORMATION &amp; STRATEGIC</b> <b>PLANNING</b> <b>DIRECTORATE FOR PRIORITY CRIME</b> <b>INVESTIGATION</b>		
<b>Enquiries:</b>	Lt Col Sivhula			
<b>Telephone:</b>	012 846 4303			

- A. JS Chetty
- B. The Divisional Commissioner  
Research  
SOUTH AFRICAN POLICE SERVICE

**RE: FORMAL RESEARCH APPLICATION: AN EVALUATION OF ELECTRONIC  
SURVEILLANCE AS A COVERT TECHNIQUE: JS CHETTY**

1. Approval has not been granted for you to conduct research in the Directorate for  
Priority Crime Investigation.
  - a. The research will compromise the investigation of the police.
- B. For your information

  
SUB-SECTION COMMANDER: MANAGEMENT INFORMATION AND STRATEGIC  
PLANNING: DIRECTORATE FOR PRIORITY CRIME INVESTIGATION  
N SIVHULA

Date: 2014/01/25



26/2/2 (8/2018/19)

## INFORMATION NOTE

To: The Head  
Directorate for Priority Crime Investigation  
S A Police Service

**APPLICATION TO CONDUCT RESEARCH WITHIN: SOUTH AFRICAN POLICE SERVICE: DIRECTORATE FOR PRIORITY CRIME INVESTIGATION: AN EVALUATION OF ELECTRONIC SURVEILLANCE AS A COVERT TECHNIQUE IN THE INVESTIGATION OF ORGANISED CRIME: RESEARCHER: JS CHETTY**

### 1. Purpose

The purpose of this information note is to submit the application to conduct research: topic: "to evaluate electronic surveillance as a covert technique in the investigation of organised crime"; JS Chetty.

### 2. Attachments

- Application letter from SAPS
- Research proposal (Details of studies) which contains the following among others
  - Problem statement (P1)
  - Aim of the Research (P2)
  - Purpose of the Research (P2)
  - Research Question (P3)
  - Interview Schedule (Annexure A)

3. Application meets the requirements /~~does not meet the requirements~~ (1/2006).

  
LT COLONEL  
SUB-SECTION COMMANDER: MANAGEMENT INFORMATION AND STRATEGIC  
PLANNING: DIRECTORATE FOR PRIORITY CRIME INVESTIGATION  
N SIVHULA

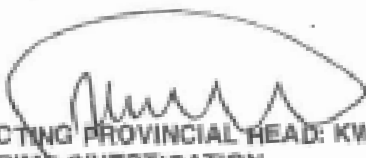
Date: 2019/01/14

APPLICATION TO CONDUCT RESEARCH WITHIN: SOUTH AFRICAN POLICE  
SERVICE: DIRECTORATE FOR PRIORITY CRIME INVESTIGATION: AN  
EVALUATION OF ELECTRONIC SURVEILLANCE AS A COVERT TECHNIQUE IN  
THE INVESTIGATION OF ORGANISED CRIME: RESEARCHER: JS CHETTY

Application recommended/not recommended

Comments:

*The application is based on the fact that the  
area of research will compromise covert  
police investigation methods*

  
ACTING PROVINCIAL HEAD: KWA-ZULU NATAL: DIRECTORATE FOR PRIORITY  
CRIME INVESTIGATION  
MR MBATHA


BRIGADIER

Date: 2019.01.15

Application recommended/not recommended

Comments:

*The research will compromise the police  
investigation*


  
COMPONENT HEAD: SERIOUS ORGANISED CRIME: DIRECTORATE FOR  
PRIORITY CRIME INVESTIGATION  
MS LEDWABA

MAJOR GENERAL

Date: 2019-01-15

Application approved/not approved

Comments:

  
NATIONAL HEAD: DIRECTORATE FOR PRIORITY CRIME INVESTIGATION  
(DR/ADV) SG LEBEYA (SQEG)

LIEUTENANT GENERAL

Date: 2019-01-18

**APPLICATION TO CONDUCT RESEARCH WITHIN: SOUTH AFRICAN POLICE  
SERVICE: DIRECTORATE FOR PRIORITY CRIME INVESTIGATION; AN  
EVALUATION OF ELECTRONIC SURVEILLANCE AS A COVERT TECHNIQUE IN  
THE INVESTIGATION OF ORGANISED CRIME: RESEARCHER: JS CHETTY**

Information note compiled by:  
Code and telephone number:  
Date:

BH Sehume  
(012) 846 4356  
12 December 2018

Information note perused and verified by:  
Code and telephone number:  
Date:

LT Col Sivhula  
(012) 846 4303  
12 December 2018

## ANNEXURE “E” – Permission (granted) correspondence for the interviewing of prosecutors.

LT.COL J.S CHETTY  
SOUTH AFRICAN POLICE SERVICE  
CRIME INTELLIGENCE  
KWA-ZULU NATAL

THE HEAD: J.Q.A PMB CLUSTER  
DEPARTMENT OF JUSTICE  
KWA-ZULU NATAL

PERMISSION TO CONDUCT RESEARCH IN THE DEPARTMENT OF JUSTICE: RESEARCHER: LT COL J.S. CHETTY: CRIME INTELLIGENCE: KWA- ZULU NATAL TOPIC : AN EVALUATION OF ELECTRONIC SURVEILLANCE AS A COVERT TECHNIQUE IN THE INVESTIGATION OF ORGANISED CRIME: MTech: CRIMINAL JUSTICE (UNISA)

1. The above mentioned officer is currently a student at the University of South Africa (UNISA) who is currently completing his dissertation in MTech: Criminal Justice.
2. The above officer currently has approximately thirty years eight months service in the South African Police Service.
3. The said officers research proposal was submitted via his supervisor Dr NJC Olivier to the police practice department of Unisa and which has since been approved. Please find attached Annexure A and B.
- 3.1 The Officers Registration Document at UNISA is attached as Annexure C.
4. The officer is currently in the final stages of his dissertation for completion of MTech in Criminal Justice and is currently making his own payment for the said studies.
5. An application is hereby made to conduct research within the Department Of Justice with Topic: An Evaluation of Electronic Surveillance as a Covert Technique in the Investigation of Organised Crime. The research will entail interviewing of two prosecutors that have been exposed to prosecution entailing organized crime from Kwa-Zulu Natal.
6. The participation of respondents in the study will be on voluntary basis. All the respondents will also be informed about the reason for the study and what it aims to achieve. The consent form will be documented and will be done in the language that is understandable for the respondent. The researcher will make sure that the respondents understand the consent. All the information that is gathered will be handled confidentially and anonymity of all respondents including names will be guaranteed. The participants will be informed that they can at any stage withdraw. The researcher's interview schedule will include the purpose of the research, duration of the research, the procedure of the research and how answers will be recorded. The researcher will explain anonymity and confidentiality of the research to the participant. In the explanation the researcher will reassure the respondents that their names will not be disclosed and that the interview schedules will be filed in a safe and sure environment. The respondents will sign a declaration of voluntary participation and the respondent will be guaranteed that refusal to participate will incur no penalty. Once all the data has been collected and analyzed, the researcher will write up the findings as accurately and objectively as possible.



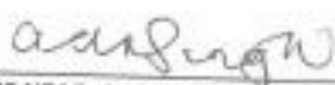
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ORGANISED CRIME: MTECH: CRIMINAL JUSTICE (UNISA) (CTD)

7. Your favourable consideration in the above application is highly appreciated.

  
LT. COLONEL  
CRIME INTELLIGENCE: SOUTH AFRICAN POLICE SERVICE  
KWA-ZULU NATAL  
J.S. CHETTY

DATE: 2018-11-16

APPROVED / ~~NOT APPROVED~~

  
THE HEAD: J.Q.A PMB CLUSTER  
DEPARTMENT OF JUSTICE  
A.A.K. SINGH (ADV)  
SENIOR MAGISTRATE  
PMB CLUSTER: KZN

DATE:

<b>MAGISTRATE</b>
PRIVATE BAG X9011
2018 -11- 16
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# ANNEXURE “F” – Turnitin Evaluation Report

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